[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 15, 170, and 171

[NRC-2018-0292]

RIN 3150-AK24

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2021

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These amendments are necessary to implement the Nuclear Energy Innovation and Modernization Act (NEIMA), which, beginning with fiscal year (FY) 2021, requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget less certain amounts excluded from this fee-recovery requirement. In addition, the NRC is also making improvements associated with fee invoicing to implement provisions of NEIMA.

DATES: This final rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2018-0292** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking website:** Go to https://www.regulations.gov and search for Docket ID **NRC-2018-0292**. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; e-mail: Dawn.Forder@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this final rule.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at https://www.nrc.gov/reading-rm/adams.html. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. For the convenience of the reader, the ADAMS accession numbers and instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section of this document.

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I. Background; Statutory Authority

A. Statutory Authority

Revised Fee-Recovery Framework for FY 2021 and Subsequent Fiscal Years

The NRC is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These amendments are necessary to implement Public Law 115-439, NEIMA (42 U.S.C. 2215). The NEIMA fee-related changes, effective October 1, 2020, include 1) repealing the prior fee-recovery framework and replacing it with a revised framework and 2) requirements to improve the accuracy of invoices for service fees.

Effective October 1, 2020, NEIMA repealed Section 6101 of the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA-90) (42 U.S.C. 2214), and put in place a revised fee-recovery framework for FY 2021 and subsequent fiscal years, requiring the NRC to recover, to the maximum extent practicable, approximately 100 percent of its total budget authority for the fiscal year, less the budget authority for excluded activities. For FYs 2005 through 2020, OBRA-90 required the NRC to recover through fees approximately 90 percent of its budget authority for the fiscal year, less amounts for the activities excluded from fee recovery under OBRA-90 or other legislation. The 10 percent of the remaining budget authority not recovered through fees was historically referred to as fee-relief activities. In this final rule, the NRC has established a revised fee-recovery framework, which eliminates the 10 percent limit on fee-relief activities. Accordingly, the NRC will no longer provide a fee-relief credit (when the amount budgeted for fee-relief activities is less than the 10 percent threshold, which would have

decreased annual fees for licensees) or assess a fee-relief surcharge (when the amount budgeted for fee-relief activities is greater than the 10 percent threshold, which would have increased annual fees for licensees) as part of the calculation of annual fees for each licensee fee class.

In FY 2021, the NRC's fee regulations are primarily governed by two laws: 1) the Independent Offices Appropriation Act, 1952 (IOAA) (31 U.S.C. 9701), and 2) NEIMA (42 U.S.C. 2215). The IOAA authorizes and encourages Federal agencies to recover—to the fullest extent possible—costs attributable to services provided to identifiable recipients. Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. Under Section 102(b)(1)(B) of NEIMA, "excluded activities" include any fee-relief activity as identified by the Commission, generic homeland security activities, waste incidental to reprocessing activities, Nuclear Waste Fund activities, advanced reactor regulatory infrastructure activities, Inspector General services for the Defense Nuclear Facilities Safety Board, research and development at universities in areas relevant to the NRC's mission, and a nuclear science and engineering grant program.

In FY 2021, the fee-relief activities identified by the Commission are consistent with prior final fee rules and include Agreement State oversight, regulatory support to Agreement States, medical isotope production infrastructure, fee exemptions for non-profit educational institutions, costs not recovered from small entities under § 171.16(c) of title 10 of the *Code of Federal Regulations* (10 CFR), generic decommissioning/reclamation activities, the NRC's uranium recovery program and unregistered general licenses, potential U.S. Department of Defense Program Memorandum of Understanding activities (Military Radium-226), and non-military radium sites. In addition, for FY 2021, the Commission identified international activities, not including the resources for import and export licensing, as fee-relief activities to be excluded from the fee-recovery requirement.

Under NEIMA, the NRC must use its IOAA authority first to collect service fees for NRC work that provides specific benefits to identifiable recipients (such as licensing work, inspections, and special projects). The NRC's regulations in 10 CFR part 170, "Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended," explain how the agency collects service fees from specific beneficiaries. Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses "annual fees" under 10 CFR part 171, "Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC," to recover the remaining amount necessary to comply with NEIMA.

In addition, Section 102(b)(3)(B)(i) of NEIMA establishes a new cap for the annual fees charged to operating reactor licensees; under this provision, the annual fee for an operating reactor licensee, to the maximum extent practicable, shall not exceed the annual fee amount per operating reactor licensee established in the FY 2015 final fee rule (80 FR 37432; June 30, 2015), adjusted for inflation (see Section II, Discussion, "FY 2021 Fee Collection—Revised Annual Fees," of this final rule).

B. Accurate Invoicing

Section 102(d) of NEIMA requires three sets of actions related to NRC invoices for service fees assessed under 10 CFR part 170. First, as stated in Section 102(d)(1) of NEIMA, the NRC must "ensure appropriate review and approval prior to the issuance of invoices" for service fees. Second, as stated in Section 102(d)(2) of NEIMA, the NRC must "develop and implement processes to audit invoices [for 10 CFR part 170 service fees] to ensure accuracy, transparency, and fairness." Third, as stated in Section 102(d)(3) of NEIMA, the NRC is required to "modify regulations to ensure fair and

appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices" for service fees.

The NRC developed and implemented process improvements to ensure accurate invoicing for the first two actions. First, in July 2019, the NRC implemented a new agencywide process to standardize the validation of fees, which fully satisfies Section 102(d)(1) and partially addresses Section 102(d)(2) of NEIMA. The new standardized process improved accountability and oversight within the NRC to ensure that fee billing data is correct before appearing on a licensee's invoice. Standardizing the fee validation process defines roles and responsibilities for performing fee billing validation and certification; this standardization process also improves accountability and internal controls by adding management oversight to improve the accuracy of fee billing data. The NRC's new process will lead to improved internal and external auditing of service fee invoices to ensure accuracy, transparency, and fairness of invoices. The process requires offices with fee billable charges to regularly review and certify hours and costs to validate the charges before the NRC sends a bill for service fees. On an annual basis, external financial statement auditors will conduct an audit of a sample of invoices to determine whether the NRC is accurately invoicing in accordance with the NRC's fee schedules. Therefore, the NRC's invoices will be reviewed and audited by both internal and external parties.

The second NEIMA accurate invoicing action also concerns the transparency and fairness of the overall billing process. The NRC is firmly committed to the application of fairness and equity in the assessment of fees. All 10 CFR part 170 service fees are reassessed and published in the *Federal Register* on a yearly basis. In January 2018, the NRC redesigned its invoices to add clarity and transparency for its stakeholders; new features included an invoice legend of NRC acronyms and the names of individual NRC staff and/or the contractor company, if applicable, who had performed the work associated with the charges were added. In addition, the NRC's staff hours and contractor costs were listed separately on invoices so the recipient could view the

subtotals for the two different categories of costs. Finally, the NRC implemented a new data structure to more effectively account for and track all billable work at the project level. The structure included a data element called an Enterprise Project Identifier (EPID), which provides useful details regarding the type of project or work that is being billed. Inspection report numbers were converted to EPIDs to provide more information, and descriptions of inspection activities were added to the invoice. Using this data structure enabled the NRC's licensees and other persons assessed service fees to identify how many hours are being expended on each of the various activities within a project. To further these efforts, the NRC standardized its Cost Activity Codes (CACs) for all agency activities to clearly provide licensees with consistent descriptions of the work being performed across licensing actions, inspections, and over multiple dockets. Invoices for service fees are now presented in a more useful and readable manner and hours and costs are no longer commingled. As a result, the NRC's invoices provide stakeholders greater transparency regarding fees.

In addition, in October 2019, the NRC released an electronic billing (eBilling) system. This public-facing, web-based application provides persons assessed service fees, including licensees, immediate delivery of NRC invoices, customizable e-mail notifications, the capability to view and analyze invoice details, and access to the U.S. Department of the Treasury systems to pay invoices. The eBilling application provides persons assessed service fees, including licensees, increased billing process transparency and has increased applicant and licensee confidence in the assessed fees and charges.

To address the third action, the NRC is modifying the regulations under 10 CFR chapter I to provide a standard process for licensees and applicants to efficiently dispute or otherwise seek review and correction of errors in invoices for services fees (see Section II, Discussion, "FY 2021—Policy Changes," of this final rule).

II. Discussion

FY 2021 Fee Collection—Overview

The NRC is issuing this FY 2021 final fee rule based on the Consolidated Appropriations Act, 2021 (the enacted budget). The final fee rule reflects a total budget authority in the amount of $844.4 million, a decrease of $11.2 million from FY 2020. As explained previously, certain portions of the NRC's total budget authority for the fiscal year are excluded from NEIMA's fee-recovery requirement under Section 102(b)(1)(B) of NEIMA. Based on the FY 2021 enacted budget, these exclusions total $123.0 million, consisting of $91.2 million for fee-relief activities, $17.7 million for advanced reactor regulatory infrastructure activities, $11.7 million for generic homeland security activities, $1.2 million for waste incidental to reprocessing activities, and $1.2 million for Inspector General services for the Defense Nuclear Facilities Safety Board. Table I summarizes the excluded activities for the FY 2021 final rule.

TABLE I—EXCLUDED ACTIVITIES

[Dollars in millions]

	FY 2021 Final Rule
Fee-Relief Activities:	
International activities (not including the resources for import and export licensing)	24.7
Agreement State oversight	10.4
Medical isotope production infrastructure	7.0
Fee exemption for nonprofit educational institutions	9.3
Costs not recovered from small entities under 10 CFR 171.16(c)	7.8
Regulatory support to Agreement States	12.3
Generic decommissioning/reclamation activities (not related to the operating power reactors and spent fuel storage fee classes)	14.9
Uranium recovery program and unregistered general licensees	3.7
Potential Department of Defense remediation program Memorandum of Understanding activities	1.0
Non-military radium sites	0.2
Subtotal Fee-Relief Activities	91.2
Activities under Section 102(b)(1)(B)(ii) of NEIMA (Generic Homeland Security activities, Waste Incidental to Reprocessing activities, and the Defense Nuclear Facilities Safety Board)	14.1
Advanced reactor regulatory infrastructure activities	17.7
Total Excluded Activities	123.0

After accounting for the exclusions from the fee-recovery requirement and net billing adjustments (i.e., for FY 2021 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2021 for prior year invoices and current year collections made for the termination of one operating power reactor), the NRC must recover approximately $708.0 million in fees in FY 2021. Of this amount, the NRC estimates that $190.6 million will be recovered through 10 CFR part 170 service fees and approximately $517.4 million will be recovered through 10 CFR part 171 annual fees. Table II summarizes the fee-recovery amounts for the FY 2021 final fee rule using the enacted budget and takes into account the budget authority for excluded activities and net billing adjustments. For all information presented in the following tables, individual values may not sum to totals due to rounding. Please see the work papers (ADAMS Accession No. ML21119A024) for actual amounts.

In FY 2021, the explanatory statement associated with the Consolidated Appropriations Act, 2021, also includes direction for the NRC to use $35.0 million in prior-year unobligated carryover funds, including $16.0 million for the University Nuclear Leadership Program, which replaced the Integrated University Program. The NRC does not assess fees in the current fiscal year for any carryover funds because, consistent with the requirements of NEIMA, fees are calculated based on the budget authority enacted for the current fiscal year and fees were already assessed in the fiscal year in which the carryover funds were appropriated.

TABLE II—BUDGET AND FEE RECOVERY AMOUNTS[1]

[Dollars in millions]

	FY 2021 Final Rule
Total Budget Authority	$844.4
Less Budget Authority for Excluded Activities:	-123.0
Balance	721.4
Fee Recovery Percent	100
Total Amount to be Recovered:	721.4

[1] For each table, numbers may not add due to rounding.

Less Estimated Amount to be Recovered through 10 CFR Part 170 Fees	-190.6
Estimated Amount to be Recovered through 10 CFR Part 171 Fees	530.8
10 CFR Part 171 Billing Adjustments:	
Unpaid Current Year Invoices (estimated)	2.1
Less Current Year Collections from a Terminated Reactor – Indian Point Nuclear Generating, Unit 2 in FY 2020 and Indian Point Nuclear Generating, Unit 3 in FY 2021	-2.7
Less Payments Received in Current Year for Previous Year Invoices (estimated)	-12.8
Adjusted Amount to be Recovered through 10 CFR Parts 170 and 171 Fees	708.0
Adjusted 10 CFR Part 171 Annual Fee Collections Required	$517.4

FY 2021 Fee Collection—Professional Hourly Rate

The NRC uses a professional hourly rate to assess fees under 10 CFR part 170 for specific services it provides. The professional hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). This rate is applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC's professional hourly rate is derived by adding budgeted resources for: 1) mission-direct program salaries and benefits, 2) mission-indirect program support, and 3) agency support (corporate support and the Inspector General). The NRC then subtracts certain offsetting receipts and divides this total by the mission-direct full-time equivalent (FTE) converted to hours (the mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours). The only budgeted resources excluded from the professional hourly rate are those for mission-direct contract resources, which are generally billed to licensees separately. The following shows the professional hourly rate calculation:

$$\text{Professional Hourly Rate} = \frac{\text{Budgeted Resources}}{\text{Mission-Direct FTE Converted to Hours}} = \frac{\$732.2 \text{ million}}{1{,}684 \times 1{,}510} = \$288$$

For FY 2021, the NRC is increasing the professional hourly rate from $279 to $288. The 3.2 percent increase in the FY 2021 professional hourly rate is primarily due

to a 2.1 percent increase in budgetary resources of approximately $15.0 million. The increase in budgetary resources is, in turn, primarily due to an increase in salaries and benefits to support Federal pay raises for NRC employees. The anticipated decline in the number of mission-direct FTE compared to FY 2020 also contributed to the increase in the professional hourly rate. The professional hourly rate is inversely related to the mission-direct FTE amount; therefore, as the number of mission-direct FTE decrease the professional hourly rate can increase. The number of mission-direct FTE is expected to decline by 17, primarily due to: 1) the completion of probabilistic risk assessment reviews related to lessons learned from the accident at Fukushima Dai-ichi in Japan; 2) the closure of Duane Arnold Energy Center (Duane Arnold); and 3) the reduced workload associated with significance determinations, operating experience evaluations, and generic communications development.

The FY 2021 estimate for annual mission-direct FTE productive hours is 1,510 hours, which is unchanged from FY 2020. This estimate, also referred to as the productive hours assumption, reflects the average number of hours that a mission-direct employee spends on mission-direct work in a given year. This estimate, therefore, excludes hours charged to annual leave, sick leave, holidays, training, and general administrative tasks. Table III shows the professional hourly rate calculation methodology. The FY 2020 amounts are provided for comparison purposes.

TABLE III—PROFESSIONAL HOURLY RATE CALCULATION

[Dollars in millions, except as noted]

	FY 2020 Final Rule	FY 2021 Final Rule
Mission-Direct Program Salaries & Benefits	$314.6	$335.3
Mission-Indirect Program Support	$110.8	$113.2
Agency Support (Corporate Support and the IG)	$291.5	$283.7
Subtotal	$716.9	$732.2
Less Offsetting Receipts[2]	$0.0	$0.0

[2] The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity fees (financial protection required of all licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 professional hourly rate, per the guidance in the Office of Management and Budget (OMB) Circular A-25, *User Charges.* The budgeted

Total Budgeted Resources Included in Professional Hourly Rate	$716.9	$732.2
Mission-Direct FTE (Whole numbers)	1,701	1,684
Annual Mission-Direct FTE Productive Hours (Whole numbers)	1,510	1,510
Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Annual Mission-Direct FTE Productive Hours)	2,568,510	2,542,840
Professional Hourly Rate (Total Budgeted Resources Included in Professional Hourly Rate Divided by Mission-Direct FTE Converted to Hours) (Whole Numbers)	$279	$288

FY 2021 Fee Collection—Flat Application Fee Changes

The NRC is amending the flat application fees it charges in its schedule of fees in §§ 170.21 and 170.31 to reflect the revised professional hourly rate of $288. The NRC charges these fees to applicants for materials licenses and other regulatory services, as well as to holders of materials licenses. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2021. As part of its calculations, the NRC analyzes the actual hours spent performing licensing actions and estimates the five-year average of professional staff hours that are needed to process licensing actions as part of its biennial review of fees; these actions are required by Section 205(a) of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(a)(8)). The NRC performed this review in FY 2021 and will perform this review again in FY 2023. The biennial review adjustments and the higher professional hourly rate of $288 are the primary reasons for the increase in flat application fees (see the work papers).

In order to simplify billing, the NRC rounds these flat fees to a minimal degree. Specifically, the NRC rounds these flat fees (up or down) in such a way that ensures both convenience for its stakeholders and that any rounding effects are minimal. Accordingly, fees under $1,000 are rounded to the nearest $10, fees between $1,000

resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The budgeted resources for indemnity activities are allocated under the Licensing Actions and Research and Test Reactors products within the Operating Reactors business line.

and $100,000 are rounded to the nearest $100, and fees greater than $100,000 are rounded to the nearest $1,000.

The flat fees are applicable for import and export licensing actions (see fee categories K.1. through K.5. of § 170.21 and fee categories 15.A. through 15.R. of § 170.31), as well as certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Applications filed on or after the effective date of the FY 2021 final fee rule will be subject to the revised fees in the final rule.

FY 2021 Fee Collection—Low-Level Waste Surcharge

As in prior years, the NRC is assessing a generic low-level waste (LLW) surcharge of $3.4 million. Disposal of LLW occurs at commercially-operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. Four existing LLW disposal facilities in the United States accept various types of LLW. All are located in Agreement States and, therefore, are regulated by an Agreement State, rather than the NRC. The NRC is allocating this surcharge to its licensees based on data available in the U.S. Department of Energy's (DOE) Manifest Information Management System. This database contains information on total LLW volumes disposed of by four generator classes: academic, industrial, medical, and utility. The ratio of waste volumes disposed of by these generator classes to total LLW volumes disposed over a period of time is used to estimate the portion of this surcharge that will be allocated to the power reactors, fuel facilities, and the materials users fee classes. The materials users fee class portion is adjusted to account for the large percentage of materials licensees that are licensed by the Agreement States rather than the NRC.

Table IV shows the allocation of the LLW surcharge and its allocation across the various fee classes.

TABLE IV—ALLOCATION OF LLW SURCHARGE

FY 2021

[Dollars in millions]

Fee Classes	LLW Surcharge	
	Percent	$
Operating Power Reactors	87.5	2.941
Spent Fuel Storage/Reactor Decommissioning	0.0	0.000
Non-Power Production or Utilization Facilities	0.0	0.000
Fuel Facilities	9.9	0.333
Materials Users	2.6	0.087
Transportation	0.0	0.000
Rare Earth Facilities	0.0	0.000
Uranium Recovery	0.0	0.000
Total	100.0	3.361

FY 2021 Fee Collection—Revised Annual Fees

In accordance with SECY-05-0164, “Annual Fee Calculation Method” (ADAMS Accession No. ML052580332), the NRC rebaselines its annual fees every year. “Rebaselining” entails analyzing the budget in detail and then allocating the budgeted resources to various classes or subclasses of licensees. It also includes updating the number of NRC licensees in its fee calculation methodology.

The NRC is revising its annual fees in §§ 171.15 and 171.16 to recover approximately 100 percent of the NRC’s FY 2021 enacted budget (less the budget authority for excluded activities and the estimated amount to be recovered through 10 CFR part 170 fees). The total estimated 10 CFR part 170 collections for this final rule are $190.6 million, which is a decrease of $29.6 million from the FY 2020 final rule (see the specific fee class sections for a discussion of this decrease). The NRC, therefore, must recover $517.4 million through annual fees from its licensees, which is an increase of $9.5 million from the FY 2020 final rule.

Table V shows the rebaselined fees for FY 2021 for a sample of licensee categories. The FY 2020 amounts are provided for comparison purposes.

TABLE V—REBASELINED ANNUAL FEES

[Actual dollars]

Class/Category of Licenses	FY 2020 Final Annual Fee	FY 2021 Final Annual Fee
Operating Power Reactors	$4,621,000	$4,749,000
+ Spent Fuel Storage/Reactor Decommissioning	188,000	237,000
Total, Combined Fee	$4,809,000	$4,986,000
Spent Fuel Storage/Reactor Decommissioning	$188,000	$237,000
Non-Power Production or Utilization Facilities	$81,300	$80,000
High Enriched Uranium Fuel Facility (Category 1.A.(1)(a))	$5,067,000	$4,643,000
Low Enriched Uranium Fuel Facility (Category 1.A.(1)(b))	$1,717,000	$1,573,000
Uranium Enrichment (Category 1.E)	$2,208,000	$2,023,000
UF_6 Conversion and Deconversion Facility (Category 2.A.(1)	$510,000	$467,000
Basic *In Situ* Recovery Facilities (Category 2.A.(2)(b))	$49,200	$47,200
Typical Users:		
Radiographers (Category 3O)	$29,900	$29,100
All Other Specific Byproduct Material Licensees (Category 3P)	$9,700	$9,900
Medical Other (Category 7C)	$14,800	$16,800
Device/Product Safety Evaluation - Broad (Category 9A)	$13,800	$17,900

The work papers that support this final rule show in detail how the NRC allocates the budgeted resources for each class of licensees and calculates the fees.

Paragraphs a. through h. of this section describe the budgeted resources allocated to each class of licensees and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers for this final rule.

a. Operating Power Reactors

The NRC will collect $441.7 million in annual fees from the operating power reactors fee class in FY 2021, as shown in Table VI. The FY 2020 operating power reactors fees are shown for comparison purposes.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR

OPERATING POWER REACTORS

[Dollars in millions]

Summary Fee Calculations	FY 2020 Final	FY 2021 Final
Total budgeted resources	$623.9	$611.8
Less estimated 10 CFR part 170 receipts	-186.7	-161.6
Net 10 CFR part 171 resources	437.2	450.2
Allocated generic transportation	0.2	0.3
Fee-relief adjustment	-1.2	N/A
Allocated LLW surcharge	3.1	2.9
Billing adjustment	2.4	-9.1
Adjustment: Estimated current year collections from terminated reactor (Indian Point Generating, Unit 2 in FY 2020 and Indian Point Generating, Unit 3 in FY 2021)	-2.7	-2.7
Total required annual fee recovery	439.0	441.7
Total operating reactors	95	93
Annual fee per reactor	$4.621	$4.749

In comparison to FY 2020, the FY 2021 annual fee for the operating power reactors fee class is increasing primarily due to the following: 1) the decline in 10 CFR part 170 estimated billings; 2) the reduction in the total number of operating power reactors due to the closure of Duane Arnold and Indian Point Energy Center (Indian Point Unit 3); and 3) the absence of the fee-relief credit that was provided in FY 2020 as part of the fee-relief adjustment. The increase in the annual fee for the operating power reactors fee class is partially offset due to the following: 1) the decrease in budgeted resources; 2) the 10 CFR part 171 billing adjustment that was included in the operating power reactors fee class calculation due to the deferral of annual fees and fees for services due to the coronavirus disease (COVID-19) pandemic; and 3) the current year collection adjustment due to the shutdown of Indian Point Unit 3. These components are discussed in the following paragraphs.

The 10 CFR part 170 estimated billings declined primarily due to the following: 1) the decrease due to the plant closures; 2) the completion of construction activities at Vogtle Electric Generating Plant, Unit 3 (Vogtle Unit 3); 3) the completion of the NuScale small modular reactor (SMR) design certification review; and 4) the impact of continued

travel restrictions and limited on-site presence on inspection activities due to the COVID-19 pandemic. This decrease in the 10 CFR part 170 estimated billings is partially offset by increased work to support the following: 1) the review of the Oklo Power LLC combined license (COL) application for the Aurora micro reactor, which was docketed in June 2020; and 2) rescheduled inspection activities that were deferred due to the COVID-19 pandemic.

In addition, as a result of the revised fee-recovery framework under NEIMA, the FY 2021 annual fee increased due to the absence of the fee-relief credit that was provided in FY 2020 as part of the fee-relief adjustment. Because NEIMA eliminated the approximately 90 percent requirement for fee recovery and, in turn, the 10 percent limit on fee-relief activities, the NRC will no longer provide a fee-relief credit or assess a fee-relief surcharge as part of the calculation of annual fees for each licensee fee class.

The increase in the annual fee is partially offset by a decline in FTEs associated with changes in workload, including, but not limited to, the following: 1) the completion of probabilistic risk assessment reviews related to lessons learned from the accident at Fukushima Dai-ichi in Japan; 2) the closure of Duane Arnold; 3) reduced workload associated with significance determinations, operating experience evaluations, and generic communications development; 4) the completion of the NuScale SMR design certification review; 5) a decrease in licensing actions and reduced demand for operator licensing and vendor inspection work resulting from the completion of construction of Vogtle Unit 3; and 6) decreases in research workload in areas of flooding, high energy arc faulting testing, and the near completion of the Level 3 probabilistic risk assessment project. The decrease in the budgeted resources is offset by an increase for certain contract costs due to a reduction in the utilization of prior-year unobligated carryover funding and an increase in the fully-costed FTE rate compared to FY 2020.

In addition, the increase in the annual fee is partially offset by the $9,143,303 billing adjustment that was included in the operating power reactors calculation due to the deferral of annual fees and fees for services due to the COVID-19 pandemic, and a

$2,700,000 current year collection adjustment in the operating power reactors fee class calculation due to the shutdown of Indian Point Unit 3.

The fee-recoverable budgeted resources are divided equally among the 93 licensed operating power reactors, a decrease of two operating power reactors compared to FY 2020 due to the closure of Duane Arnold and Indian Point Unit 3, resulting in an annual fee of $4,749,000 per reactor. Additionally, each licensed operating power reactor is assessed the FY 2021 spent fuel storage/reactor decommissioning annual fee of $237,000 (see Table VII and the discussion that follows). The combined FY 2021 annual fee for each operating power reactor is $4,986,000.

The NRC included an estimate of the operating power reactors annual fee in Appendix C, “Estimated Operating Power Reactors Annual Fee,” of the FY 2021 Congressional Budget Justification (CBJ), with the intent to increase transparency with stakeholders. The NRC developed this estimate based on the staff’s allocation of the FY 2021 budget request to fee classes under 10 CFR part 170, and allocations within the operating power reactors fee class under 10 CFR part 171. In addition, the estimated annual fee assumed 93 operating power reactors in FY 2021 and applied various data assumptions from the FY 2019 final fee rule (84 FR 22331; May 17, 2019). Based on these allocations and assumptions, the operating power reactor annual fee included in the FY 2021 CBJ was estimated to be $4.8 million, approximately $0.6 million below the FY 2015 operating power reactors annual fee amount adjusted for inflation of $5.4 million. Collectively, these actions serve to mitigate impacts resulting from licensees leaving the fee class and help the NRC continue to develop budgets that account for a fee class with a declining number of licensees. Although the FY 2021 CBJ included the estimated operating power reactors annual fee, the assumptions made between budget formulation and the development of the FY 2021 final rule have changed, as shown in Table VI.

In FY 2016, the NRC amended its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for light-water SMRs

(81 FR 32617). Under the variable annual fee structure, an SMR's annual fee would be assessed as a function of its bundled licensed thermal power rating. Currently, there are no operating SMRs; therefore, the NRC will not assess an annual fee in FY 2021 for this type of licensee.

b. Spent Fuel Storage/Reactor Decommissioning

The NRC will collect $28.9 million in annual fees from 10 CFR part 50 power reactor licensees, and from 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license, to recover the budgeted resources for the spent fuel storage/reactor decommissioning fee class in FY 2021, as shown in Table VII. The FY 2020 spent fuel storage/reactor decommissioning fees are shown for comparison purposes.

TABLE VII—ANNUAL FEE SUMMARY CALCULATIONS FOR SPENT FUEL STORAGE/REACTOR DECOMMISSIONING

[Dollars in millions]

Summary Fee Calculations	FY 2020 Final	FY 2021 Final
Total budgeted resources	$37.9	$42.2
Less estimated 10 CFR part 170 receipts	-15.9	-13.8
Net 10 CFR part 171 resources	22.1	28.4
Allocated generic transportation costs	0.8	1.1
Fee-relief adjustment	-0.1	N/A
Billing adjustments	0.1	-0.6
Total required annual fee recovery	22.9	28.9
Total spent fuel storage facilities	122	122
Annual fee per facility	$0.188	$0.237

In comparison to FY 2020, the FY 2021 annual fee for the spent fuel storage/reactor decommissioning fee class is increasing primarily due to the increase in the budgeted resources and the decline in the 10 CFR part 170 estimated billings. This increase is partially offset by the 10 CFR part 171 billing adjustment that was included in the spent fuel storage/reactor decommissioning fee class calculation due to the deferral

of annual fees and fees for services due to the COVID-19 pandemic. These components are discussed in the following paragraphs.

The budgeted resources for the spent fuel storage/reactor decommissioning fee class increased primarily to support the following: 1) decommissioning activities associated with power reactors in decommissioning, including the transition of Duane Arnold from operation to the power reactor decommissioning program; and 2) waste research activities associated with accident tolerant fuel, high burnup, and enrichment extension fuels.

The 10 CFR part 170 estimated billings for FY 2021 decreased primarily due to the following: 1) a reduction in hours associated with the staff's review of applications for renewals and amendments for independent spent fuel storage installation (ISFSI) licenses and dry cask storage certificates of compliance (CoCs); 2) the near completion of the staff's review of the Interim Storage Partners consolidated interim storage facility application; 3) the completion of certain follow-up inspections and other inspection activities for San Onofre Nuclear Generating Station; 4) the completion of licensing actions, partial site release requests, and a decrease in confirmatory survey work at multiple sites; and 5) the near completion of the license termination for the La Crosse Boiling Water Reactor. This decrease in the 10 CFR part 170 estimated billings is partially offset by increased work to support the following: 1) inspection activities for ISFSI licenses and dry cask storage CoCs; 2) the staff's safety and environmental review of the Holtec HI-STORE consolidated interim storage facility application; 3) the staff's review of topical reports; and 4) decommissioning activities within the power reactor decommissioning program, including the review of decommissioning license amendment requests, exemption requests, and inspection activities at multiple sites.

The increase in the annual fee is partially offset by an approximate $0.6 million 10 CFR part 171 billing adjustment that was included in the spent fuel storage/reactor decommissioning calculation due to the deferral of annual fees and fees for services due to the COVID-19 pandemic.

The required annual fee recovery amount is divided equally among 122 licensees, resulting in a FY 2021 annual fee of $237,000 per licensee.

c. Fuel Facilities

The NRC will collect $17.5 million in annual fees from the fuel facilities fee class in FY 2021, as shown in Table VIII. The FY 2020 fuel facilities fees are shown for comparison purposes.

TABLE VIII—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary Fee Calculations	FY 2020 Final	FY 2021 Final
Total budgeted resources	$23.2	$23.3
Less estimated 10 CFR part 170 receipts	-6.8	-7.3
Net 10 CFR part 171 resources	16.5	16.0
Allocated generic transportation	1.1	1.5
Fee-relief adjustment	-0.1	N/A
Allocated LLW surcharge	0.4	0.3
Billing adjustments	0.1	-0.4
Total remaining required annual fee recovery	$18.0	$17.5

In comparison to FY 2020, the FY 2021 annual fee for the fuel facilities fee class is decreasing primarily due to the increase in 10 CFR part 170 estimated billings and the 10 CFR part 171 billing adjustment that was included in the fuel facilities calculation due to the deferral of annual fees and fees for services due to the COVID-19 pandemic. The decrease in the annual fee is offset by an increase in the budgeted resources as discussed in the following paragraphs.

The 10 CFR part 170 estimated billings increased as a result of the following: 1) the increased workload to support the staff's review of a license amendment application associated with high assay low-enriched uranium and the associated security

plans, and 2) the review of the Westinghouse environmental impact statement being developed for the license renewal application. As part of the final annual fee calculation, an approximate $0.4 million billing adjustment was included in the fuel facilities calculation due to the deferral of annual fees and fees for services due to the COVID-19 pandemic.

The decrease in the annual fee is offset, in part, by an increase in the resources for contract costs budgeted for the fuel facilities fee class primarily due to a reduction in the utilization of prior-year unobligated carryover compared to FY 2020.

The NRC will continue allocating annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31447; June 10, 1999). To briefly recap, the matrix groups licensees within this fee class into various fee categories. The matrix lists processes that are conducted at licensed sites and assigns effort factors for the safety and safeguards activities associated with each process (these effort levels are reflected in Table IX). The annual fees are then distributed across the fee class based on the regulatory effort assigned by the matrix. The effort factors in the matrix represent regulatory effort that is not recovered through 10 CFR part 170 fees (e.g., rulemaking, guidance). Regulatory effort for activities that are subject to 10 CFR part 170 fees, such as the number of inspections, is not applicable to the effort factor.

In addition, the NRC has added an annual fee for fee category 1.A.(2), “Limited Operations,” in anticipation that the NRC may decide to issue a license amendment in the future that would move a licensee to the “Limited Operations” fee category from the 1.E, “Uranium Enrichment” fee category because the NRC has received an amendment application to a fuel facility license that, if granted, would authorize a significantly smaller operating facility.

TABLE IX—EFFORT FACTORS FOR FUEL FACILITIES, FY 2021

Facility Type (fee category)	Number of Facilities	Effort Factors	
		Safety	Safeguards

High-Enriched Uranium Fuel (1.A.(1)(a))	2	88	91
Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70	21
Limited Operations (1.A.(2)(a))	1	3	17
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	0	0	0
Hot Cell (and others) (1.A.(2)(c))	0	0	0
Uranium Enrichment (1.E.)	1	16	23
UF_6 Conversion and Deconversion (2.A.(1))	1	7	2

In FY 2021, the total remaining amount of annual fees to be recovered, $17.5 million, is attributable to safety activities, safeguards activities, and the LLW surcharge. For FY 2021, the total budgeted resources to be recovered as annual fees for safety activities are $9.4 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percentage of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources to be recovered as annual fees for safeguards activities, $7.8 million, to each fee category based on its percentage of the total regulatory effort for safeguards activities. Finally, the fuel facilities fee class portion of the LLW surcharge—$0.3 million—is allocated to each fee category based on its percentage of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The fee for each facility is summarized in Table X.

TABLE X—ANNUAL FEES FOR FUEL FACILITIES

[Actual dollars]

Facility Type (fee category)	FY 2020 Final Annual Fee	FY 2021 Final Annual Fee
High-Enriched Uranium Fuel (1.A.(1)(a))	$5,067,000	$4,643,000
Low-Enriched Uranium Fuel (1.A.(1)(b))	$1,717,000	$1,573,000
Facilities with limited operations (1.A.(2)(a))	N/A	$1,037,000
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	N/A	N/A
Hot Cell (and others) (1.A.(2)(c))	N/A	N/A
Uranium Enrichment (1.E.)	$2,208,000	$2,023,000
UF_6 Conversion and Deconversion (2.A.(1))	$510,000	$467,000

d. Uranium Recovery Facilities

The NRC will collect $0.2 million in annual fees from the uranium recovery facilities fee class in FY 2021, as shown in Table XI. The FY 2020 uranium recovery facilities fees are shown for comparison purposes.

TABLE XI—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2020 Final	FY 2021 Final
Total budgeted resources	$0.6	$0.5
Less estimated 10 CFR part 170 receipts	-0.4	-0.3
Net 10 CFR part 171 resources	0.2	0.2
Allocated generic transportation	N/A	N/A
Fee-relief adjustment	0.0	N/A
Billing adjustments	0.0	0.0
Total required annual fee recovery	$0.2	$0.2

In comparison to FY 2020, the FY 2021 annual fee for the uranium recovery facilities fee class is decreasing primarily due to a decline in the budgeted resources because of an expected decrease in casework associated with uranium recovery policy issues, environmental review coordination activities, and guidance development.

The NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act (UMTRCA).[3] The annual fee assessed to DOE includes the resources specifically budgeted for the NRC's UMTRCA Title I and II activities, as well as 10 percent of the remaining budgeted resources for this fee class. The NRC described the overall methodology for determining fees for UMTRCA in the FY 2002 fee rule (67 FR 42625; June 24, 2002), and the NRC continues to use this methodology. The DOE's UMTRCA annual fee is decreasing compared to FY 2020 due to an increase

[3] Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from hazards associated with uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for weapons programs. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

in the 10 CFR part 170 estimated billings for the anticipated workload increases at various DOE UMTRCA sites. The NRC assesses the remaining 90 percent of its budgeted resources to the remaining licensee in this fee class, as described in the work papers. This is reflected in Table XII:

TABLE XII—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FACILITIES FEE CLASS

[Actual dollars]

Summary of Costs:	FY 2020 Final Annual Fee	FY 2021 Final Annual Fee
DOE Annual Fee Amount (UMTRCA Title I and Title II)		
General Licenses:		
UMTRCA Title I and Title II budgeted resources less 10 CFR part 170 receipts	$114,577	$111,536
10 percent of generic/other uranium recovery budgeted resources	5,573	5,241
10 percent of uranium recovery fee-relief adjustment	-107	N/A
Total Annual Fee Amount for DOE (rounded)	$120,000	$117,000
Annual Fee Amount for Other Uranium Recovery Licenses:		
90 percent of generic/other uranium recovery budgeted resources less the amounts specifically budgeted for UMTRCA Title I and Title II activities	$50,153	$47,166
90 percent of uranium recovery fee-relief adjustment	-959	N/A
Total Annual Fee Amount for Other Uranium Recovery Licenses	$49,194	$47,166

Further, for any non-DOE licensees, the NRC will continue using a matrix to determine the effort levels associated with conducting generic regulatory actions for the different licensees in the uranium recovery facilities fee class; this is similar to the NRC's approach for fuel facilities, described previously. The matrix methodology for uranium recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are: conventional uranium mills and heap leach facilities, uranium *in situ* recovery (ISR) and resin ISR facilities, and mill tailings disposal facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each activity's relative weight (see the work papers). Currently, there is only one remaining non-DOE licensee, which is a basic *in situ*

recovery facility. Table XIII displays the benefit factors for the non-DOE licensee in that fee category:

TABLE XIII—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

Fee Category	Number of Licensees	Benefit Factor Per Licensee	Total Value	Benefit Factor Percent Total
Conventional and Heap Leach mills (2.A.(2)(a))	0	0	0	0
Basic *In Situ* Recovery facilities (2.A.(2)(b))	1	190	190	100.0
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	0	0	0	0
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	0	0	0	0
Total	1	190	190	100.0

The annual fee for the remaining non-DOE licensee is calculated by allocating 100 percent of the budgeted resources, as summarized in Table XIV.

TABLE XIV—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

(Other than DOE)

[Actual dollars]

Facility Type (fee category)	FY 2020 Final Annual Fee	FY 2021 Final Annual Fee
Conventional and Heap Leach mills (2.A.(2)(a))	N/A	N/A
Basic *In Situ* Recovery facilities (2.A.(2)(b))	$49,200	$47,200
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	N/A	N/A
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	N/A	N/A

e. Non-Power Production or Utilization Facilities

The NRC will collect $0.320 million in annual fees from the non-power production or utilization facilities fee class in FY 2021, as shown in Table XV. The non-power

production or utilization facilities fee class replaces the research and test reactor fee class from previous fiscal years. This revised fee class accounts for commercial non-power production and utilization facilities expected to be used for the production of medical isotopes. The final FY 2020 research and test reactors fees are shown for comparison purposes.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR NON-POWER PRODUCTION OR UTILIZATION FACILITIES

[Actual Dollars]

Summary Fee Calculations	FY 2020 Final	FY 2021 Final
Total budgeted resources	$3,317,830	$2,896,754
Less estimated 10 CFR part 170 receipts	-3,030,000	-2,576,000
Net 10 CFR part 171 resources	287,830	320,754
Allocated generic transportation	30,713	4,330
Fee-relief adjustment	-6,183	N/A
Billing adjustments	12,980	-4,391
Total required annual fee recovery	325,341	320,141
Total non-power production or utilization facilities licenses	4	4
Total annual fee per license (rounded)	$81,300	$80,000

In comparison to FY 2020, the budgetary resources for the non-power production or utilization facilities fee class is primarily decreasing with respect to the medical isotope production facilities due to the near completion of the activities associated with the staff's review of the operating license application for SHINE Medical Technologies, LLC (SHINE). In addition, the 10 CFR part 170 estimated billings are declining within the fee class as a result of delayed submittals associated with medical isotope production facilities by various applicants. The 10 CFR part 170 estimated billings associated with the four non-power production or utilization facilities licensees subject to annual fees increased to support the following: 1) activities associated with the review of the GE Nuclear Test Reactor license renewal application; and 2) activities associated with the

review of a complex license amendment for the National Institute of Standards and Technology Neutron Reactor.

The annual fee-recovery amount is divided equally among the four non-power production or utilization facilities licensees subject to annual fees and results in an FY 2021 annual fee of $80,000 for each licensee.

f. Rare Earth

The NRC has not allocated any budgeted resources to this fee class; therefore, the NRC is not assessing an annual fee for this fee class in FY 2021.

g. Materials Users

The NRC will collect $35.3 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70, as shown in Table XVI. The FY 2020 materials users fees are shown for comparison purposes.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary Fee Calculations	FY 2020 Final	FY 2021 Final
Total budgeted resources for licensees not regulated by Agreement States	$33.7	$35.1
Less estimated 10 CFR part 170 receipts	-1.0	-1.0
Net 10 CFR part 171 resources	32.8	34.1
Allocated generic transportation	1.2	1.5
Fee-relief adjustment	0.0	N/A
LLW surcharge	0.0	0.1
Billing adjustments	0.1	-0.4
Total required annual fee recovery	$34.1	$35.3

The formula for calculating 10 CFR part 171 annual fees for the various categories of materials users is described in detail in the work papers. Generally, the calculation results in a single annual fee that includes 10 CFR part 170 costs, such as amendments, renewals, inspections, and other licensing actions specific to individual fee categories.

The total annual fee recovery of $35.3 million for FY 2021 shown in Table XVI consists of $27.6 million for general costs and $7.7 million for inspection costs. To equitably and fairly allocate the $35.3 million required to be collected among approximately 2,500 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the materials license, this approach provides a proxy for allocating the generic and other regulatory costs to the diverse fee categories. This fee calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

In comparison to FY 2020, annual fees are decreasing for 42 fee categories within the materials users fee class to reflect changes as a result of the biennial review of fees, which included an examination of the average professional hours for licensing and oversight activities. In addition, annual fees are increasing for 11 fee categories within the materials users fee class due to the following: 1) an increase in the fully-costed FTE rate compared to FY 2020; 2) an increase in the budgeted resources for contract costs due to a reduction in the utilization of prior-year unobligated carryover funding compared to FY 2020; 3) the realignment of budgeted resources that supports contract funding for general license tracking, the materials event database, and rulemaking information technology activities; 4) changes as a result of the biennial review of fees, which included an examination of the average professional hours for

licensing and oversight activities; and 5) an increase in generic transportation costs for materials users.

A constant multiplier is established to recover the total general costs (including allocated generic transportation costs) of $27.6 million. To derive the constant multiplier, the general cost amount is divided by the sum of all fee categories (application fee plus the inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in a constant multiplier of 1.0 for FY 2021. The average inspection cost is the average inspection hours for each fee category multiplied by the professional hourly rate of $288. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is established in order to recover the $7.7 million in inspection costs. To derive the inspection multiplier, the inspection costs amount is divided by the sum of all fee categories (inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in an inspection multiplier of 1.43 for FY 2021. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. Please see the work papers for more detail about this classification.

The annual fee being assessed to each licensee also takes into account a share of approximately $0.087 million in LLW surcharge costs allocated to the materials users fee class (see Table IV, “Allocation of LLW Surcharge, FY 2021,” in Section II, “Discussion,” of this document). The annual fee for each fee category is shown in the revision to § 171.16(d).

h. Transportation

The NRC will collect $1.4 million in annual fees to recover generic transportation budgeted resources in FY 2021, as shown in Table XVII. The FY 2020 fees are shown for comparison purposes.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS

FOR TRANSPORTATION

[Dollars in millions]

Summary Fee Calculations	FY 2020 Final	FY 2021 Final
Total budgeted resources	$7.2	$8.3
Less estimated 10 CFR part 170 receipts	-2.8	-2.3
Net 10 CFR part 171 resources	4.4	5.9
Less generic transportation resources	-3.4	-4.5
Fee-relief adjustment	0.0	N/A
Billing adjustments	0.0	-0.1
Total required annual fee recovery	$1.0	$1.4

In comparison to FY 2020, the annual fee for the transportation fee class is increasing primarily due to the following: 1) the decline in 10 CFR part 170 estimated billings related to delays in new amendment packages; and 2) an increase in the budgeted resources for contract costs due to a reduction in the utilization of prior-year unobligated carryover funding compared to FY 2020, an increase in the number and complexities of transportation package applications as a result of an increase in the number of power reactors in decommissioning, and the expanded use of accident tolerant fuels. The increase in the annual fee is partially offset by an approximate $0.1 million 10 CFR part 171 billing adjustment that was included in the transportation fee class calculation due to the deferral of annual fees and fees for services due to the COVID-19 pandemic.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE by including those costs in the annual fees for licensee fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

This resource distribution to the licensee fee classes and DOE is shown in Table XVIII. Note that for the non-power production or utilization facilities fee class, the NRC allocates the distribution to only those licensees that are subject to annual fees. Although five CoCs benefit the entire non-power production or utilization facilities fee class, only 4 out of 31 non-power production or utilization facilities licensees are subject to annual fees. Consequently, the number of CoCs used to determine the proportion of generic transportation resources allocated to annual fees for the non-power production or utilization facilities fee class has been adjusted to 0.7 so these licensees are charged a fair and equitable portion of the total fees (see the work papers).

TABLE XVIII—DISTRIBUTION OF TRANSPORTATION RESOURCES, FY 2021

[Dollars in millions]

Licensee Fee Class/DOE	Number of CoCs Benefiting Fee Class or DOE	Percentage of Total CoCs	Allocated Generic Transportation Resources
Materials Users	23.0	25.9	1.5
Operating Power Reactors	5.0	5.6	0.3
Spent Fuel Storage/Reactor Decommissioning	16.0	18.0	1.1
Non-Power Production or Utilization Facilities	0.7	0.7	0.0
Fuel Facilities	23.0	25.9	1.5
Sub-Total of Generic Transportation Resources	67.7	76.3	4.5
DOE	21.0	23.7	1.4
Total	88.7	100.0	5.9

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

FY 2021—Policy Changes

The NRC is making two policy changes for FY 2021:

Process for Disputing Errors in Invoices for Service Fees.

Section 102(d)(3) of NEIMA requires the NRC to "modify regulations to ensure fair and appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices" for service fees. The NRC is implementing requirements for a standard method for licensees and applicants to efficiently dispute or seek review and correction of errors in invoices. The process being implemented is illustrated in the process map, "NRC Form 529, Processing Dispute of Fees-For-Service Charges" (ADAMS Accession No. ML20311A159). This process follows the established method for licensees and applicants to submit requests for the review of fees assessed under 10 CFR part 170 (ADAMS Accession No. ML20104C055). The NRC Form 529 will be available in the agency's eBilling system and on the agency's public website, and can be found under ADAMS Accession No. ML20339A673. Standard use of an NRC form and amendments to the current regulations in § 15.31 will increase efficiency by providing the licensees and applicants with clear guidelines and expectations for submitting a fee dispute. It also eliminates ambiguity regarding the appropriate information needed for the NRC to consider and make a determination on a fee dispute.

In response to NEIMA's requirement that the NRC modify its regulations to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in service fee invoices, the NRC is revising its regulations. Specifically the NRC is revising § 15.31, "Disputed debts," with conforming amendments in §§ 15.37, "Interest, penalties, and administrative costs," and 15.53, "Reasons for suspending collection action," and changing the heading for § 170.51, "Right to review and appeal of prescribed fees," to "Right to dispute assessed fees." The NRC is also adding a new section, § 171.26, "Right to dispute assessed fees," to 10 CFR part 171. These changes outline the interactions between the submitter and the

NRC. The process will enhance understanding of the dispute process by setting out the process for submitting a fee dispute, the stages of the decisionmaking process while the dispute is under review, and the manner by which the NRC will notify a debtor after it makes a final determination on a dispute. Additionally, these amendments provide consistent terminology to differentiate fee disputes under 10 CFR part 15 from fee exemptions under 10 CFR parts 170 and 171.

Assessment of annual fees for future 10 CFR part 50 non-power production or utilization facility licensees and for small modular reactor licensees.

The NRC is amending § 171.15(a) so that the assessment of annual fees commences after future non-power production or utilization facility (NPUF) licensees have successfully completed startup testing and have provided written notification to the NRC. In addition, the NRC is renaming the "research and test reactors" fee class the "non-power production or utilization facilities" fee class, which would include currently operating research and test reactors and future NPUFs, such as non-reactor NPUF technologies. Finally, the NRC is amending § 171.15(e) so that the assessment of annual fees for a SMR licensee commences after the successful completion of power ascension testing and the licensee provides written notification to the NRC. These policy changes are consistent with the FY 2020 final fee rule (85 FR 37250; June 19, 2020) that amended the timing of the assessment of annual fees for future 10 CFR part 50 power reactors and 10 CFR part 52 COL holders.

Currently, § 171.15(a) requires the NRC to assess annual fees to a test or research reactor (excluding test or research reactors exempted under § 171.11(b)) when the NRC authorizes the licensee to use nuclear materials (i.e., begin operating the reactor in accordance with its license). Prior to this final rule, the NRC had not established a policy for assessing 10 CFR part 171 annual fees to future non-reactor NPUF licensees (e.g., SHINE); at this time, the NRC currently assesses only 10 CFR part 170 service fees to prospective applicants for preapplication activities,

construction permit holders (i.e., SHINE and Northwest Medical Isotopes, LLC (NWMI)) and applicants for operating licenses (i.e., SHINE) for commercial NPUFs, as well as certain operating non-power production or utilization facilities not exempted under § 170.11. While the NRC's fee regulations do not include a fee class for future non-reactor NPUF licensees, the NRC historically has included budgeted resources for NWMI and SHINE within the research and test reactor fee class. The budgeted resources for NWMI and SHINE not recovered in 10 CFR part 170 service fees previously were included in fee-relief. These resources for the development of a medical isotope production infrastructure are now excluded from the fee-recovery requirement under NEIMA as a fee-relief activity identified by the Commission.

In anticipation that the NRC may decide to issue an operating license in the future, the NRC is revising its regulations to provide for the assessment of annual fees to NPUFs under § 171.15(a) when they have notified the NRC of the successful completion of startup testing. This final rule uses the term "non-power production or utilization facility" to have the same meaning as the definition used in SECY-19-0062, "Final Rule: Non-power Production or Utilization Facility License Renewal" (ADAMS Accession No. ML18031A000), dated June 17, 2019.[4] The definition includes production or utilization facilities, licensed under § 50.21(a) or (c), or § 50.22, as applicable, that are not nuclear power reactors or production facilities within the meaning of paragraphs (1) and (2) of § 50.2, which defines "production facility." This definition includes currently operating and future research and test reactors and proposed medical radioisotope facilities that would be licensed under 10 CFR part 50. As such, non-reactor NPUF licensees, such as SHINE, would be included in the same annual fee class as currently operating research and test reactors that pay 10 CFR part 171 annual fees. This approach is consistent with the current approach of combining limited numbers of similar facilities

[4] The NPUF draft final rule would also revise the definition of *research reactor* in §§ 170.3 and 171.5 to conform to other definitions in 10 CFR chapter I. The NRC is not proposing to change the definition of *Research reactor* in the specific exemption for federally-owned and State-owned research reactors in § 170.11(a)(9) or § 171.11(b)(2). The current definition in § 171.11(b)(2) is based on the language of OBRA-90. Further, a substantively similar definition of *research reactor* was included in the provisions of NEIMA that relate to the NRC's fee recovery structure. Changing the definition of *research reactor* in § 171.11(b)(2) would therefore be inconsistent with NEIMA.

into a single annual fee category, where “test reactors” (of which only one is currently operational) are assessed the same 10 CFR part 171 annual fees as “research reactors.” In addition, the NRC expects that NPUF facilities will request that a single license under 10 CFR part 50 authorize the operation of multiple utilization and/or production facilities. Based on the number of facilities authorized to operate under a single license, the number of staff hours dedicated to licensing and oversight activities for these facilities is not expected to differ significantly compared to those for the current operating fleet of NPUFs. Furthermore, stakeholders have previously supported this approach regarding the assessment of 10 CFR part 171 annual fees for future NPUFs. Therefore, a single annual fee would be appropriate even where an NPUF licensee has multiple facilities operating under a single 10 CFR part 50 license.

SMR licenses can be issued under 10 CFR part 50 or 52. Currently, § 171.15 requires the NRC to assess annual fees to a 10 CFR part 50 SMR licensee upon issuance of an operating license, or to a 10 CFR part 52 SMR COL holder after the Commission has made the finding under § 52.103(g) for all licenses held for an SMR site. The annual fee would be determined using the cumulative licensed thermal power rating of all SMR units and the bundled unit concept. For a given site, the use of the bundled unit concept is independent of the number of SMR plants, the number of SMR licenses issued, and the sequencing of the SMR licenses that have been issued. There are currently no operating SMRs; therefore, the NRC has not yet assessed an annual fee for this type of licensee.

The NRC recognizes that, after the issuance of an operating license under 10 CFR part 50 for NPUFs and SMRs, or a COL and § 52.103(g) finding under 10 CFR part 52 for SMRs, fuel or targets (or both) must be loaded and startup testing (for NPUFs) and power ascension testing (for SMRs) must be completed before the facility begins full licensed operation. As discussed in the statement of considerations for the FY 2020 final fee rule, 10 CFR part 52 COLs for power reactors contain a standard license condition that requires the submittal of written notification to the NRC

upon successful completion of power ascension testing. Therefore, the NRC will incorporate a similar license condition into all future 10 CFR part 50 operating licenses for NPUFs and SMRs, and 10 CFR part 52 COLs for SMRs to ensure that the licensee will promptly notify the NRC of the successful completion of startup testing or power ascension testing. The annual fee assessment for future NPUFs and SMR licenses under 10 CFR part 50, and SMRs under 10 CFR part 52, will begin on the date of the licensee's written notification of the successful completion of startup testing or power ascension testing.

Accordingly, the NRC is amending § 171.15(a) and (e) so that annual fees commence upon written notification to the NRC of successful completion of startup testing and power ascension testing, rather than upon issuance of the operating license for 10 CFR part 50 NPUFs and SMRs, or issuance of the § 52.103(g) finding for 10 CFR part 52 COL holders for SMRs, but upon written notification to the NRC of successful completion of startup testing and/or power ascension testing. The NRC finds this change to 10 CFR part 171 to be reasonable, fair, and equitable, and to be supported by the public comments the NRC received on PRM-171-1, which was submitted by Dr. Michael D. Meier on behalf of the Southern Nuclear Operating Company (ADAMS Accession No. ML19081A015), and on the FY 2020 proposed fee rule (85 FR 9328; February 18, 2020). The NRC is also making conforming changes by revising § 170.3, "Definitions," § 171.3, "Scope," § 171.5, "Definitions," and § 171.17, "Proration."

FY 2021—Administrative Changes

The NRC is making seven administrative changes:

1. Change Small Entity Fees.

As stated in SECY-08-0174, "Fiscal Year 2009 Proposed Fee Rule and Advance Rulemaking for Grid-Appropriate Reactor Fees," dated November 7, 2008 (ADAMS Accession No. ML083120518), the NRC determined that the maximum small entity fee should be adjusted biennially using a fixed percentage of 39 percent applied to the prior

two-year weighted average of materials users' fees for all fee categories that have small entity licensees. The 39 percent was based on the small entity annual fee for FY 2005, which was the first year the NRC was required to recover only 90 percent of its budget authority. This methodology remains in place; however, the NRC does also consider whether or not implementing an increase will have a disproportionate impact on the NRC's small entity licensees when compared to other licensees. Therefore, the increase for the upper and lower tier fees were capped at a 21 percent increase.

For the FY 2021 proposed fee rule (86 FR 10459; February 22, 2021), the NRC conducted a biennial review of small entity fees to determine whether the NRC should change those fees. The NRC used the fee methodology, developed in FY 2009, which applies a fixed percentage of 39 percent to the prior two-year weighted average of materials users' fees, when performing its biennial review. Based on this methodology and as a result of the FY 2021 biennial review, the NRC is increasing the upper tier small entity fee from $4,500 to $4,900 and increasing the lower tier fee from $900 to $1,000. This constitutes a 9 percent and 11 percent increase, respectively. The NRC believes these fees are reasonable and provide relief to small entities, while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them.

2. Amend § 170.1, "Purpose," to change the reference to the Independent Offices Appropriation Act, 1952.

The NRC is amending § 170.1 to replace the "of" after Independent Offices Appropriation Act with a comma to make the reference to the legislation consistent with references in other NRC contexts.

3. Amend § 170.3, "Definitions," to eliminate definitions for "Balance of plants," "Nuclear Steam Supply System," and "Reference systems concept".

The NRC is amending § 170.3 to eliminate definitions for "Balance of plants," "Nuclear Steam Supply System," and "Reference systems concept." These definitions are no longer applicable in 10 CFR part 170. These definitions were added in the

FY 1977 final fee rule (43 FR 7210; March 23, 1978) to resolve issues concerning assessing fees for balance of plant reviews, related to a previous fee category (category A.4.b in the table at § 170.21 for standardized design-reference systems concept), that was not subject to full cost recovery. In the FY 1991 final fee rule, the NRC amended 10 CFR parts 52 and 170 to assess licensing fees for the review of standardized reactor designs, which would be subject to full cost recovery (56 FR 31472; July 10, 1991). This amendment to eliminate these definitions will not impact the NRC's assessment of 10 CFR part 170 fees for service.

4. Remove footnote 6 to the table in § 170.21, and footnote 12 to the table in § 170.31.

The NRC is removing footnote 6 to the table in § 170.21 and footnote 12 to the table in § 170.31 because 1) Congress has not enacted legislation that would exclude import and export activities from the fee-recoverable budget in FY 2021; and 2) in accordance with NEIMA, for FY 2021, the NRC identified international activities as fee-relief activities, but it did not include resources for import and export licensing. The NRC, therefore, will charge fees for import and export licensing actions.

5. Amend § 171.5, "Definitions," to replace the reference in "Budget authority".

The NRC is amending the definition of "budget authority" to replace the reference to Public Law 101-508 (i.e., OBRA-90) with a reference to Public Law 115-439 (i.e., NEIMA). Effective October 1, 2020, NEIMA repealed Section 6101 of OBRA-90 and put in place a revised fee-recovery framework, requiring the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities.

6. Amend § 171.11(c), "Exemptions".

The NRC is revising § 171.11(c) to change the "or" in the section to "and." This change accurately reflects that even when an exemption is "in the public interest," the NRC cannot grant the exemption unless it is "authorized by law." This change also

harmonizes § 171.11(c) with § 170.11(b), which uses “and.” This change does not alter the NRC’s fee exemption policy.

7. Technical Correction.

The NRC is making a technical correction to the program codes referenced in §§ 170.31 and 171.16. Under §§ 170.31 and 171.16, the NRC is removing program code 03252 since it is no longer in use for fee category 3(I). Under § 171.16, the NRC is replacing the program codes referenced for fee category 3(A)(1) with 04010, 04012, and 04014 to reflect the correct program codes that should be cited for this fee category. Currently, 3(A)(1) references program codes 03211, 03212 and 03213. The NRC is also removing program 03235 referenced in fee category 4(A) since it is used as a secondary program code and no fees are charged to this code.

Update on the Fees Transformation Initiative

In the staff requirements memorandum (SRM), dated October 19, 2016 (ADAMS Accession No. ML16293A902), for SECY-16-0097, “Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule” (ADAMS Accession No. ML16194A365), the Commission directed the staff to accelerate its process improvements for setting fees. In addition, the Commission directed the staff to begin the fees transformation activities listed in SECY-16-0097 as “Process Changes Recommended for Future Consideration—FY 2018 and Beyond.” The NRC has completed 39 of the 40 fees transformation activities.

The one fees transformation activity yet to be completed is the rulemaking to update the NRC’s small business size standards in § 2.810, “NRC size standards.” In FY 2020, the NRC conducted a survey of materials licensees to collect relevant data to help determine the need for changes to the NRC’s small business size standards in § 2.810. In addition, the NRC considered changes in the small business size standards published by the Small Business Administration (SBA). On December 7, 2020, the staff submitted SECY-20-0111, “Rulemaking Plan to Amend the Receipts-Based NRC Size

Standards," to the Commission (ADAMS Accession No. ML20268B327) with the staff's recommendations for amending the NRC's receipts-based size standards. In the SRM for SECY-20-0111 (ADAMS Accession No. ML21029A186), the Commission approved the staff's recommendation to initiate a rulemaking to amend the NRC's small business size standards in §§ 2.810 and 171.16(c) to comply with the Small Business Runway Extension Act of 2018 (Runway Act) and related SBA regulations and to reflect inflation adjustments. The NRC is currently in the process of developing the proposed rule. The NRC will continue to include updates on this rulemaking activity within the FY 2021 and FY 2022 fee rules to ensure that affected licensees are adequately informed. The public can track all NRC rulemaking activities, including the rulemaking on the NRC's size standards, on the NRC's Rulemaking Tracking and Reporting system at https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/RuleIndex.html, or by Docket ID NRC-2014-0264 at http://www.regulations.gov.

For more information, see the fees transformation accomplishments schedule, located on the NRC's license fees web page at: https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html.

III. Public Comment Analysis

Overview of Public Comments

The NRC published a proposed rule on February 22, 2021 (86 FR 10459), and requested public comment on its proposed revisions to 10 CFR parts 15, 170, and 171. By the close of the comment period, the NRC received eight written comment submissions on the FY 2021 proposed rule. In general, the commenters were supportive of the specific proposed regulatory changes. Some commenters expressed concerns about broader fee-policy issues related to transparency, the overall size of the NRC's budget, fairness of fees, and budget formulation. Some commenters' concerns were outside the scope of the fee rule.

The commenters are listed in Table XIX.

TABLE XIX—FY 2021 PROPOSED FEE RULE COMMENTER SUBMISSIONS

Commenter	Affiliation	ADAMS Accession No.
Andrew Straw	N/A	ML21064A398
M. Keller	Hybrid Power Technologies LLC	ML21064A399
Matthew Ostdiek	Rendezvous Engineering, P.C. (RE)	ML21077A246
Gary Peters	Framatome	ML21082A394
Jennifer Uhle	Nuclear Energy Institute (NEI)	ML21084A747
Cheryl Gayheart	Southern Nuclear Operating Company (SNC)	ML21084A747
Bradley Fewell	Exelon Generation Company (Exelon)	ML21085A680
Anonymous	N/A	ML21090A120

Information about obtaining the complete text of the comment submissions is available in Section XIV, “Availability of Documents,” of this document.

IV. Public Comments and NRC Responses

The NRC has carefully considered the public comments received on the proposed rule. The comments have been organized by topic. Comments from a single commenter have been quoted to ensure accuracy; brackets within those comments are used to show changes that have been made to the quoted comments. The NRC responses are preceded by a short summary of the issues raised by the commenters.

A. Overhead Costs

Comment: “The NRC fees are wildly excessive relative to private industry. The NRC fee is more than engineering firm senior executives would charge a client. There is simply no question that the NRC bureaucracy is vast and requires an extremely high overhead cost be attached to the direct cost associated with NRC staff carrying out review activities. The NRC fee creates a yearly charge that is more than the salary of the US president. As long as significantly excessive fees are charged, there appears to

be no incentive for the NRC to reduce the overhead bloat, the proposed fee should be reduced by at least 5% every year until the fee is more similar to that of private industry doing similar work." (M. Keller)

Response: The NRC is a Federal agency tasked with protecting the health and safety of the public and the common defense and security, and there is no equivalent role found in private industry. Unlike private industry, all fees that the NRC assesses to applicants and licensees must conform to statutory requirements under the IOAA and NEIMA. In other words, the fees that the NRC charges are based in part on requirements that would not be reflected in the fees charged by private engineering firms.

The IOAA prescribes the framework for charging fees for government services. Under the IOAA, fees must be fair and based on the costs to the Government and value of the service to the recipient. Additionally, under NEIMA, the NRC is required to recover through fees, to the maximum extent practicable, approximately 100 percent of its annual budget authority, less the budget authority for excluded activities. Under NEIMA the NRC must also use its IOAA authority first to collect 10 CFR part 170 service fees for NRC work that provides specific benefits to identifiable recipients, such as licensing activities, inspections, and special projects.

To comply with these laws, the NRC establishes a professional hourly rate for its work. Consistent with the IOAA, the professional hourly rate is derived by adding budgeted resources for: 1) mission-direct program salaries and benefits; 2) mission-indirect program support; and 3) agency support, which includes corporate support and the Inspector General. The NRC then subtracts certain offsetting receipts and divides this total by the mission-direct FTE converted to hours (the mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours). The only budgeted resources excluded from the professional hourly rate are those for contract activities related to mission-direct contract resources, which are generally billed to licensees separately. Because the NRC's fee

recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses annual fees under 10 CFR part 171 to recover the remaining amount necessary to comply with NEIMA.

No change was made to the final rule in response to this comment.

B. Operating Power Reactors Decline in the Budget and 10 CFR Part 170 Estimated Billings

Comment: "Over the past five years, Part 170 service fee collections have decreased by over 20%. This reduction is even more dramatic for the operating plant fee class from which over 85% of service fees are collected, where Part 170 service fee collections have decreased by 45%. While there has been a reduction in the NRC operating plant budget during this time, the reduction has not kept pace with the reduction in operating plant service fee collections. As a result, a greater percentage of the budget is required to be recovered through annual fees. The percentage of the operating plant budget that is derived from annual fees (currently at 73%) continues to increase; up from 62% in FY 2016. As noted in the fee rule notices and associated work papers, the reductions in service fee collections in recent years have been attributable, in part, to plant closures. These closures were announced well in advance and should have enabled adjustments to be made to properly align the NRC budget to reflect smaller projected workloads. With a number of announced nuclear plant closures in FY 2022 and subsequent years, the downward trend in Part 170 service fee collections will continue. It is not realistic to expect a decreasing number of operating plants to support a budget that, on a per plant basis, is appreciably increasing. The anticipated reduction in Part 170 service fee collections places a strong obligation on the NRC to ensure that staffing levels and budgets are properly aligned to reflect smaller projected workloads. The NRC should take all necessary steps to continue and expedite its efficiency efforts. Given the maturity of the U.S. nuclear fleet, in combination with its

high level of operational performance and a demonstrated level of safety, timely reductions in unnecessary regulatory burden are appropriate. We are encouraged by efforts underway to transform NRC into a modern risk-informed regulator. It is imperative that these efforts continue." (NEI)

Response: The relationship between 10 CFR part 170 (service fees) relative to 10 CFR part 171 (annual fees) is workload-driven. The activities covered by 10 CFR part 171 annual fees are necessary for the NRC to accomplish its safety and security mission as described and justified in the CBJ. The amount of service fees collected under 10 CFR part 170, on the other hand, depends on several factors, including the professional hourly rate, licensee and applicant decisions to pursue licensing actions, and the number of hours necessary to resolve any licensing actions.

Since FY 2016, the fee class budget for operating power reactors has decreased from $750.4 million in FY 2016 to $611.8 million in FY 2021. This represents a reduction of $138.6 million, or approximately 18 percent, as a result of the decreasing number of nuclear power reactor licensees, application delays and withdrawals, fewer license amendment requests being submitted, efficiencies gained with the merger of the Office of Nuclear Reactor Regulation and the Office of New Reactors, and long-term project completions. Over this same period, the 10 CFR part 170 estimated billings for the operating power reactors fee class have declined from $287.8 million in FY 2016 to $157.0 million in FY 2021, which represents a decline of $130.8 million, or approximately 45 percent. As compared to FY 2016, the operating power reactors fee class annual fee has declined from $465.9 million in FY 2016 to $446.8 million in FY 2021, which represents a decrease of $19.1 million, or approximately 4 percent. These changes in the budgetary resources and the 10 CFR part 170 estimated billings, as well as other adjustments (including billing adjustments, generic transportation, and the LLW surcharge) and the elimination of the fee-relief surcharge or credit in FY 2021, alter the amount of fee-recoverable budgeted resources that are required to be collected through 10 CFR part 171 annual fees from the operating power reactors fee class.

With respect to expediting efficiency efforts, the NRC continues to review its budget and pursue additional efficiency improvements related to budget formulation such as pursuing the use of analytical tools (e.g., dashboards), to help the NRC analyze and report data quicker and more consistently and to support a more efficient and risk-informed budget formulation process. When formulating the budget, the NRC takes into consideration: 1) projected operating power plant closures; 2) workload forecasting, including workload drivers, analysis of historical data and trends, and communication with stakeholders; 3) the estimated level of effort for regulatory activities and yearly recurring activities; and 4) other external factors that may impact how the NRC meets its statutory responsibilities as the industry changes. However, the NRC budget is not linearly proportional to the size of the operating power reactor fleet, as there is a cost for the infrastructure that must be maintained independent of the number of operating power reactors in the fleet.

The NRC is required by NEIMA to recover, to the maximum extent practicable, approximately 100 percent of its annual budget authority, less the budget authority for excluded activities. NEIMA also caps the per-licensee annual fee for operating reactors, to the maximum extent practicable, at the FY 2015 annual fee amount as adjusted for inflation. The NRC continues to evaluate resource requirements and adjustments that can be made to refine the operating power reactors budget.

Finally, the NRC remains committed to providing enhanced transparency throughout the development of the annual fee rule and supporting work papers.

No changes were made to this final rule as a result of these comments.

Comment: "The FY 2021 Proposed Fee Rule continues to shift the burden created by overestimating Part 170 fee collections reflected in the NRC's appropriated budget to the recovery of Part 171 annual fees. While Exelon appreciates the challenge of precisely estimating the amount of Part 170 fees that will be recovered two years in advance due to the budget cycle, we note that this is precisely the problem that NEIMA intended to address. The Conference Report for NEIMA describes exactly this

challenge in explaining the basis for the law: “Several problems arise from [the OBRA-90] structure. If the NRC overestimates the amount of revenue it expect [sic] to collect under Part 170, it must recover the resulting revenue shortfall through Part 171 fees in order to meet the OBRA–90 mandate for 90 percent fee recovery.” The Congress noted that this situation “highlight[s] the need for the NRC to budget more accurately and recover fees for work that is actually conducted.” It is clear, therefore, that Congress designed NEIMA with the existing challenges of the budget cycle in mind. Notwithstanding Congress’s clear intent in this regard, the FY 2021 Proposed Fee Rule would continue to shift the impacts of Part 170 overbudgeting to Part 171 annual fees, which does not appear to take advantage of the significantly greater flexibilities in NEIMA with respect to the portions of its appropriated budget that the NRC must collect through fees." In addition to this comment submission, this response addresses similar comments made during the March 18, 2021, public meeting to discuss the FY 2021 proposed fee rule. (Exelon)

Response: The NRC disagrees with the commenter’s suggestion that the allocation of service fees versus annual fees in the FY 2021 proposed fee rule might be inconsistent with congressional intent underlying NEIMA. Under NEIMA, the NRC is still required to recover through fees the total appropriated budget (with the exception of discrete categories of budget authority), and to do so through a combination of both service fees and annual fees. Specifically, NEIMA requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its total budget authority for the fiscal year, less the budget authority for excluded activities.

The NRC is fully in compliance with NEIMA. The NRC identified fee-relief activities in the FY 2021 CBJ (which were consistent with the fee-relief activities identified in the FY 2020 fee rule, with the exception of international activities, not including the resources for import and export licensing) and the FY 2021 final fee rule maintains those same fee-relief activities. The Congressional report referenced by the commenter as support for the proposition that NEIMA was intended to provide the NRC

"significantly greater flexibilities" regarding fee collection is not a conference report, but rather a report issued by the Senate Committee on Environment and Public Works (Senate Report 115-86). At the time when the bill was reported by the Senate Committee on Environment and Public Works, the bill would have limited fee-relief activities to those identified in the FY 2015 final fee rule. This is inconsistent with the commenter's suggestion that this Congressional report reflects an intent for NEIMA to provide the NRC with greater flexibility in determining what portions of the appropriated budget are recovered through fees. The Congressional report in fact contains statements reflecting an intention that the NRC, under NEIMA, would collect fees based on the agency's workload, but the amount not recovered through fees would generally be unaffected. For example, the report states that "[c]onsistent with current practice, the taxpayer continues to pay only for the items explicitly outlined in the law as appropriated items and the rest of the NRC's budget is to be recovered through fees[;] [a]s such, the cost to the taxpayer is generally unaffected but the fee recovery will be determined by the agency's workload rather than a mandated percentage."

The FY 2021 CBJ provided the agency's explanation and justification for the resources being requested to allow the agency to complete its mission, and the reason for changes in the budget request for the NRC as compared to the prior year, at the business line and product line levels. Appendix C of the FY 2021 CBJ was included with the intent to increase transparency with stakeholders. The NRC developed this estimate based on the NRC staff's allocation of the FY 2021 budget request to fee classes under 10 CFR part 170 and allocations within the operating power reactors fee class under 10 CFR part 171, as well as certain data assumptions and historical information available during the FY 2021 budget formulation process.

Consistent with NEIMA, when developing the annual fee rule, the NRC had to take into account changes that occurred in the two-year interval between the development of the FY 2021 budget request, which began in FY 2019, and the enactment of the FY 2021 appropriation in December 2020. As part of the development

of the annual fee rule, the NRC estimates the amount of 10 CFR part 170 service fees by each fee class by analyzing billing data and the actual cost of work under NRC contracts that was charged to licensees and applicants for the previous four quarters. The estimate, therefore, reflects any recent changes in the NRC's regulatory activities.

The FY 2021 proposed rule utilized four quarters of the prior year invoice data, while the NRC is using a combination of two quarters of the prior year and two quarters of the current year billing data (which is also updated to reflect workload changes) for the FY 2021 final rule. In the FY 2021 proposed fee rule, the 10 CFR part 170 estimated billings were $157.0 million compared to the $188.3 million that was included in the FY 2021 CBJ. The decline in 10 CFR part 170 estimated billings was primarily due to: 1) the plant closures of Indian Point Unit 3 in April 2021 and Duane Arnold in October 2020; 2) the completion of construction activities at Vogtle Unit 3; 3) the completion of the NuScale SMR design certification review; and 4) the impact of continued travel restrictions and limited on-site presence on inspection activities due to the COVID-19 pandemic.

The NRC continues to actively evaluate resource requirements to address changes that occur between budget formulation and execution, and to pursue improvements that enhance the accuracy of projections used in budget formulation. For example, the NRC considers projected operating power plant closures and other external factors when estimating workload changes in a manner that allows the agency to meet its statutory responsibilities as the industry changes. The NRC also seeks information from licensees and other entities relevant to projected workload through public meetings and other forms of public outreach, to better inform the NRC's budget formulation workload assumptions. Ultimately, however, the NRC budget is not linearly proportional to the size of the operating fleet, as there is a cost for the agency infrastructure that must be maintained independent of the number of operating power reactors in the fleet.

No changes were made to this final rule as a result of these comments.

C. Fee-Relief Adjustment and NEIMA

Comment: "In the FY 2021 Proposed Fee Rule, the NRC did not make a "fee-relief adjustment" that it has made in past years on the basis that "[b]ecause NEIMA eliminated the approximately 90 percent requirement for fee recovery and, in turn, the 10 percent limit on fee-relief activities, the NRC will no longer provide a fee-relief credit or assess a fee-relief surcharge as part of the calculation of annual fees for each licensee fee class." However, nowhere in NEIMA itself nor in the legislative history did Congress direct the NRC to eliminate fee-relief adjustments. NEIMA specifically requires the deduction of "any fee relief activity, as identified by the Commission," which seems on its face to provide significant flexibility to the Commission to make necessary adjustments since "any fee relief activity" is not defined in the statute or the legislative history. The Proposed Fee Rule expressly acknowledges that the exclusion of fee relief activities is required by NEIMA as part of "Excluded Activities" to be excluded from fee recovery. But as explained in the Proposed Fee Rule, "[i]n FY 2021, the fee-relief activities identified by the Commission are consistent with prior final fee rules" with the exception of some international activities. In other words, while NEIMA made it possible for the NRC to define "fee relief activities" in a way that could have accounted for Part 170 over-budgeting, the Proposed Rule essentially maintains the same constraints that existed under OBRA-90. This interpretation was not mandated by Congress, nor does it appear to align with the NRC's overall vision to become a "modern, risk-informed regulator" that values innovative approaches to problem solving." (Exelon)

Response: The NRC disagrees with the commenter's suggestion that NEIMA allows for the NRC to provide fee-relief adjustments that would give licensees a possible credit or surcharge like under the OBRA-90 framework. NEIMA requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its total budget authority for the fiscal year, less the budget authority for excluded activities, one of which is fee-relief activities as identified by the Commission. Under NEIMA the NRC must also use its IOAA authority first to collect 10 CFR part 170 service fees for NRC

work that provides specific benefits to identifiable recipients, such as licensing activities, inspections, and special projects.

Eliminating the fee-relief adjustment increases the predictability for licensees in forecasting their annual fees. The NRC discussed the elimination of the 10 percent fee-relief credit or surcharge in FY 2021 during the FY 2020 proposed fee rule public meeting on March 5, 2020 (ADAMS Accession No. ML20077G458), where the agency explained how the elimination of the credit or surcharge would make a licensee's annual fees more predictable.

For example, if the FY 2021 fee rule had, hypothetically, remained governed by OBRA-90 and the 10 percent allowance for fee relief specified in OBRA-90 applied, there would have been a surcharge of $9.9 million to all licensees in the FY 2021 fee rule. The NRC's FY 2021 appropriation totaled $844.4 million, so a 10 percent allowance would have resulted in $81.3 million for fee-relief activities. However, the FY 2021 proposed fee rule and supporting work papers illustrate that the NRC's budget for fee-relief activities during FY 2021 totaled $91.2 million for activities not attributable to an existing licensee or class of licensees and activities not assessed fees based on existing law or Commission policy. This would have resulted in an overage of $9.9 million if the OBRA-90 framework applied.

In addition, the commenter suggests that the NRC should put in fee-relief activities (instead of 10 CFR part 171 annual fees) the budgeted resources that were anticipated to be used for 10 CFR part 170 work (e.g., licensing and oversight regulatory activities), but will ultimately not be used for 10 CFR part 170 work this fiscal year (i.e., the differences in the 10 CFR part 170 estimated billings shown in Appendix C of the FY 2021 CBJ compared to the FY 2021 final fee rule). These resources were anticipated to be used for 10 CFR part 170 work for the operating power reactors fee class as shown in Appendix C of the CBJ, which was developed based on the NRC staff's allocation of the FY 2021 budget request to fee classes under 10 CFR part 170 and allocations within the operating power reactors fee class under 10 CFR part 171, as

well as certain data assumptions and historical information that was available during the FY 2021 budget formulation process. Consistent with NEIMA, when developing the annual fee rule, the NRC had to take into account changes that occurred in the two-year interval between the development of the FY 2021 budget request, which began in FY 2019, and the enactment of the FY 2021 appropriation in December 2020. In developing the FY 2021 fee rule, the NRC estimated the amount of 10 CFR part 170 service fees by each fee class by analyzing billing data and the actual cost of work under NRC contracts that was charged to licensees and applicants for the previous four quarters. Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC must assess annual fees under 10 CFR part 171 to recover the remaining amount necessary to comply with NEIMA. NEIMA requires the NRC to establish a schedule of annual fees that fairly and equitably allocates budgeted resources. While these resources were anticipated to be used for 10 CFR part 170 work for the operating power reactors fee class, the resources have been shifted to being used for work that is recovered through 10 CFR part 171 because it will benefit the operating power reactors fee class. Thus, the NRC has appropriately included the resources in 10 CFR part 171 fees for this fee class.

Fee-relief activities identified by the Commission fall into two categories: 1) activities not attributable to an existing licensee or class of licensees, and 2) activities not assessed 10 CFR part 170 or 171 fees based on existing law or Commission policy. The categories of fee-relief activities are identified in the FY 2021 proposed fee rule in Table I *Excluded Activities* and were also discussed during the FY 2021 proposed fee rule public meeting on March 18, 2021. The fee relief activities identified by the Commission reflect a fair and equitable allocation of resources.

No changes were made to this final rule as a result of these comments.

D. Corporate Support Cap and the Fee Rule Work Papers

Comment: One commenter stated that "One of NEIMA's requirements is the limitation of Corporate Support costs as a percentage of total budget authority, to the maximum extent practicable. Exelon suggests that the fee rule explain whether the Corporate Support costs are under the NEIMA limit. NRC should also demonstrate, either in the fee rule or the work papers, how the Corporate Support cost as a percentage of total budget authority is determined. For FY 2021, NEIMA limits Corporate Support costs (to the maximum extent practicable) to 30 percent of the NRC's total budget authority. During the March 18, 2021 NRC public meeting on the Proposed Fee Rule, the staff explained that Corporate Support costs for FY2021 totaled 31% of the agency's overall budget. However, the work papers for the determination of the professional hourly rate includes approximately $284M for Corporate Support (with IG), which amounts to approximately 34% of the overall budget authority of $844M. The NRC should clearly explain in the fee rule how it arrived at the 31% allocation that it described during the public meeting." (Exelon)

Response: Section 102(a)(3) of NEIMA requires that, to the maximum extent practicable, the corporate support costs requested in the annual budget justification provided to Congress not exceed a specified percentage of the total budget authority requested for the NRC in its annual budget justification (Section 102(a)(3)(A) includes the percentage applicable to the annual budget justification for FY 2021). As stated in the Executive Summary to the FY 2021 CBJ, the corporate support request was approximately 31 percent of the agency's total requested budget authority and reflects the agency's efforts to comply with Section 102(a)(3)(A) of NEIMA to the maximum extent practicable. The FY 2021 CBJ noted that further reductions to corporate support in FY 2021 were not feasible and would jeopardize the corporate activities necessary to accomplish the agency's mission. Pages 83-86 of the FY 2021 CBJ provide more specific information on the corporate support costs by product line that comprised the 31 percent referenced during the March 18, 2021, public meeting. The corporate support business line resources total approximately $271.4 million in FY 2021, as shown

on page 83 of the FY 2021 CBJ. Corporate support does not include Inspector General budgetary resources. The percent corporate support is calculated by dividing $271.4 million by $863.4 million, which is 31 percent of the agency's total requested budget authority.

Section 102(a)(3) of NEIMA as it pertains to the corporate support cap applicable to the annual budget justification does not apply to the annual fee rule. In the FY 2021 proposed fee rule and supporting work papers, the NRC's professional hourly rate calculation was derived by adding, in part, resources for agency support, which include both corporate support and the Inspector General. The agency support (corporate support and the Inspector General) resources in the FY 2021 proposed fee rule total $283.7 million, or approximately 34 percent when dividing by $844.4 million. In addition, the NRC's overall budget authority was reduced by $19.0 million (and Congress, in turn, directed the NRC to use carryover funding, as further discussed in the "FY 2021 Fee Collection—Overview" section of this document). Also, the FY 2021 fee rule is based on the enacted budget, not the budget request. The agency will continue efforts to implement efficiencies and invest resources in initiatives that will result in future savings in corporate support activities.

No changes were made to this final rule as a result of these comments.

E. 10 CFR Part 171 Operating Power Reactors Fee Class Invoicing

Comment: "As noted in the Proposed Fee Rule, NRC has improved the accuracy and clarity of Part 170 service fee invoicing, e.g., via internal auditing and development of Enterprise Project Identifiers (EPID). Exelon acknowledges and salutes the NRC's success in this area. However, as accuracy and clarity in hourly fees collected under Part 170 has increased, the actual amount of fees collected under Part 170 has decreased. Exelon understands that the numerous line item numbers shown in the work papers' Power Reactors Fee Class details are themselves the summations of multiple other supporting calculations apparently too detailed to provide. Numerous as these line items are, their general nature makes understanding difficult for an outside

reviewer. Exelon suggests that some “pointer” designation be developed, similar to the EPID/CAC system used for Part 170 fees [] and included in the quarterly Part 171 reactor fee invoicing. This way, the details of which line items will be funded via reactor fee invoicing within a given calendar year quarter may be better tracked back to the work papers, allowing constructive dialogue between NRC and reactor licensees regarding the applicability of a particular line item to that licensee.” (Exelon)

Response: With respect to 10 CFR part 171, it would be impractical for the NRC to provide a “pointer,” such as the budget string, since annual fees are a recovery of remaining costs associated with the particular business line budget reconciled to a fee class.

The fee rule and its supporting work papers are published so the public and licensees can understand how fees are determined for a fee class and a fee category. Consistent with the requirements of NEIMA, annual fees are calculated by business lines, product lines, and products based on the budget authority enacted for the current fiscal year. The NRC provides those business lines, product lines, and products in the fee rule work papers. The CBJ provides the agency explanation and justification for the resources being requested for the budget year, including increases and decreases, and the reason for changes in the budget request for the agency as compared to the prior year, at the business line and product line levels; it also includes the prior year actual amounts at the business line and product line levels.

Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. Under NEIMA, the NRC must use its IOAA authority first to collect 10 CFR part 170 service fees for NRC work that provides specific benefits to identifiable recipients, such as licensing activities, inspections, and special projects. In so doing, the NRC establishes a professional hourly rate for its work. The 10 CFR part 170 direct work performed is included on the quarterly invoice, which includes the CAC/EPID combination, charges, and the name(s) of the person(s) conducting the activities

associated with the respective licensee fee class. With respect to 10 CFR part 170 service fees, the NRC staff time spent on licensing and inspection activities is subject to change, depending on the novelty and complexity of the application (e.g., new licenses, renewals, amendments, special projects) under review or the facility being inspected.

Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses annual fees under 10 CFR part 171 to recover the remaining amount necessary to comply with NEIMA. Thus, providing a "pointer" for annual fees such as the budget string, as suggested by the commenter, would be impractical.

At the same time, to increase transparency, the NRC first incorporated a reconciliation of the FY 2020 CBJ resources by business line to the associated fee class in the FY 2020 fee rule work papers so that stakeholders can trace the CBJ business line budgets to the resources recovered within each fee class budget by product line. The FY 2021 fee rule work papers include the reconciliation of the FY 2021 CBJ to the respective fee class. The NRC continues to strive to enhance transparency of how fees are determined.

No changes were made to the final rule as a result of this comment.

F. Public Participation in Budget Formulation

Comment: "Exelon supports the comments of the Nuclear Energy Institute on the FY 2021 Proposed Fee Rule. Given that there is no formal way for stakeholders to provide input into the formulation of the NRC's annual budget, Exelon encourages the NRC to consider these comments as part of its next budget and fee formulation process. Exelon respects the objective judgment that NRC exercises as an independent safety regulator. However, Exelon encourages the NRC to seek ways to improve its interactions with the regulated industry during budget development, within the limits required to maintain NRC independence." (Exelon)

Response: The NRC seeks information from licensees and other entities relevant to projected workload, through public meetings and other forms of public outreach, to better inform the NRC's budget formulation workload assumptions. This public outreach provides an opportunity for the regulated industry to provide information to inform the NRC budget. However, as noted in the comment, the NRC is an independent regulator, and to preserve its independence the NRC does not involve non-government organizations and members of the public in budget formulation. In addition, OMB establishes the Executive Branch budget process through OMB Circular No. A-11, "Preparation, Submission, and Execution of the Budget." Section 22.1 of OMB Circular No. A-11 requires that pre-decisional budget deliberations remain confidential until the release of the President's budget request (and, in turn, the CBJ).

No changes were made to this final rule as a result of these comments.

G. Small Entity

Comment: One commenter had comments regarding the NRC's small entity size standards and that the NRC should consider establishing lower licensing fees by creating one or more additional ranges between the $520,000 and $7,000,000 gross annual receipts range. The commenter stated that a fee rate schedule with more steps for small businesses would help reduce the license fee burden on the smaller entities and help small business concerns. (RE)

Response: To reduce the significance of the annual fees on a substantial number of small entities, the NRC established the maximum small entity fee in FY 1991. In FY 1992, the NRC introduced a second lower tier to the small entity fee. Because the NRC's methodology for small entity size standards has been approved by the SBA, the NRC did not modify its current methodology for this rulemaking.

In FY 2020, the NRC conducted a survey of materials licensees to collect relevant data to help determine the need for changes to the NRC's small business size standards in § 2.810. In addition, the NRC considered changes in the small business size standards published by the SBA.

On December 7, 2020, the staff submitted SECY-20-0111, “Rulemaking Plan to Amend the Receipts-Based NRC Size Standards,” to the Commission (ADAMS Accession No. ML20268B327) with the staff’s recommendations for amending the NRC’s receipts-based size standards. While the NRC staff recommended making inflation-related increases and adjusting the methodology for consistency with SBA regulations, the survey results did not suggest that the NRC should change its small entity size standards. In the SRM for SECY-20-0111 (ADAMS Accession No. ML21029A186), the Commission approved the staff’s recommendation to initiate a rulemaking to amend the NRC’s small business size standards in § 2.810 and to comply with the Runway Act and related SBA regulations and to reflect inflation adjustments, which will be part of a separate rulemaking activity. Also, as part of that rulemaking activity, analogous to the proposed inflation adjustment in § 2.810, the NRC will be proposing to increase the upper tier and lower tier receipts-based small entity size standards in § 171.16(c).

The NRC is currently in the process of developing the proposed rule for the small entity rulemaking activity. The NRC will continue to include updates on this rulemaking activity in the *Federal Register* notifications associated with the FY 2021 and FY 2022 fee rules to ensure that affected licensees are adequately informed. The public can track all NRC rulemaking activities, including the rulemaking on the NRC’s size standards, on the NRC’s Rulemaking Tracking and Reporting system at https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/RuleIndex.html, or by Docket ID NRC-2014-0264 at http://www.regulations.gov.

No change was made to this final rule in response to this comment.

Comment: One commenter had questions regarding the categories of licensees that can qualify as small entities, and the categories of licensees whose average users’ fees are used to determine the maximum small entity fee. (Anonymous)

Response: In implementing the Regulatory Flexibility Act of 1980, as amended, the NRC ultimately determined that it was appropriate for the agency to establish its own size standards that were consistent with the NRC's regulatory activities. The NRC classifies its small business licensees by their use of nuclear materials since the NRC's materials categories cover a mix of industries. The NRC's materials licensees can use the size standards criteria to quality as a small entity for a reduced annual fee. The NRC's industry specific size standards were approved by the SBA.

License types that allow a licensee to be eligible to qualify as a small entity and pay a reduced annual fee are listed under § 171.16. These include materials licenses (i.e., 10 CFR parts 30, 40, 70, 71, and 76 licenses) and 10 CFR part 72 licenses. The prior two-year weighted average of service fees for the qualifying fee categories that have small entity licensees is used in the biennial adjustment of the maximum small entity fee. Average service fees for types of licenses (e.g., 10 CFR part 50 licenses) that do not allow a licensee to be eligible to qualify as a small entity are not used in the determination of small entity fees.

No change was made to this final rule in response to this comment.

H. Definition of Research Reactor under § 170.11, § 171.11, and NEIMA

Comment: "NEIMA's exemption of a research reactor is a reactor licensed under section 104c of the Atomic Energy Act of 1954. It does not mention that it needs to be "Federal-owned and State-Owned research reactors used primarily for educational proposes." So any Research Reactor licensed under 104 c of the Atomic Energy Act of 1954 and meets the requirement of operations list should be except *[sic]* from fees. 10 CFR 170.11 and 10 CFR 171.11 need to be changed to reflect NEIMA definition of exempt. Having research and test reactors exempt from both annual and performance fees would encourage private investment as NEIMA was trying to do." (Anonymous)

Response: The NRC disagrees with this commenter's position that, in order to be consistent with NEIMA, the NRC should change the definition of "research reactor" in

§§ 170.11 and 171.11 to exempt from fees all research reactors licensed under Section 104c. of the Atomic Energy Act (AEA). First, NEIMA (in Section 102(b)(3)(D)(ii)) makes the annual fee exemption applicable for "federally owned research reactor used primarily for educational training and academic research purposes." In addition, the primary purpose of this rule is to update the NRC's fee schedules to recover, to the maximum extent practicable, approximately 100 percent of the NRC's total budget authority for the current fiscal year, less the budget authority for excluded activities, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations in order to ensure compliance with NEIMA.

The NRC has not proposed changing the definition of "research reactor," or the types of research reactors that are exempt (i.e., Federally-owned and State-owned research reactors used primarily for educational training and academic research purposes) in the specific exemptions in § 170.11(a)(9) or § 171.11(b)(2). The current "research reactor" definition in §§ 170.11(a)(9) and 171.11(b)(2), and the types of research reactors that are exempt from annual fees, stemmed from language in OBRA-90. NEIMA included substantively similar fee exemption language for research reactors. Changing the definition of "research reactor" in § 170.11(a)(9) or § 171.11(b)(2), or the types of research reactors that are exempt from fees pursuant to §§ 170.11(a)(9) and 171.11(b)(2), to include all research reactors licensed under Section 104c. of the AEA would not be consistent with the exemption provision in NEIMA or its predecessor in OBRA-90.

Section 106 of NEIMA, "Encouraging private investment in research and test reactors," pertains to the financial criteria used to determine whether a utilization facility is licensed as a commercial facility under Section 103 of the AEA, "Commercial Licenses," or as a research and development facility under paragraph c of Section 104, "Medical Therapy and Research and Development," of the AEA. This subject of this provision of NEIMA does not relate to fees and is outside the scope of this final rule.

No change was made to this final rule in response to this comment.

I. Accurate Invoicing

Comment: "What are the policies for fairness? We've disputed invoices in the [past] because the NRC had already completed a task, we had been shut down for years and there was no need for the NRC to restudy, investigate or review the issue. Yet, we were told that the charges were valid because the employee did indeed work the hours they said on the project. Is it fair for us to have to pay for the same work twice? We don't think so and the public would not think so. We can't tell from our recent billings what activity within a project. For example, an inspector or auditor comes out and visits. Then they go back and write their report and ask RAI, etc. We only get total hours worked on the project, not how much time it took them to write the report, how much time did [they] work on specific items they are reporting on. That would be useful information to us the licensee." (Anonymous)

Response: The NRC is firmly committed to the application of fairness and equity in the assessment of fees. NEIMA requires the NRC to establish a schedule of fees that fairly and equitably allocates these fees among the NRC's licensees and certificate holders. As part of this process, each year the NRC reassesses and publishes a proposed rule and final rule of the revisions of the fee schedules for each license fee class. As stated in the proposed rule, under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. The NRC must use its IOAA authority first to collect service fees for NRC work that provides specific benefits to identifiable recipients (such as licensing activities, inspections, and special projects). Because the NRC's fee recovery under the IOAA for 10 CFR part 170 fees for service will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses annual fees under 10 CFR part 171 to recover the remaining amount necessary to comply with NEIMA. In the FY 2021 proposed fee rule, each license fee class includes the specific information to detail how

the annual fees are derived, such as the budgetary resources, and 10 CFR part 170 estimated billings for direct activities, specific adjustments, the explanations for the changes, and the comparison to the prior fiscal year in order to derive the 10 CFR part 171 annual fees.

Additionally, Section 102(d) of NEIMA required three sets of actions related to NRC invoices for service fees assessed under 10 CFR part 170. First, as stated in Section 102(d)(1) of NEIMA, the NRC must "ensure appropriate review and approval prior to the issuance of invoices" for service fees. Second, as stated in Section 102(d)(2) of NEIMA, the NRC must "develop and implement processes to audit invoices [for 10 CFR part 170 service fees] to ensure accuracy, transparency, and fairness." Third, as stated in Section 102(d)(3) of NEIMA, the NRC is required to "modify regulations to ensure fair and appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices" for service fees.

For the first two sets of actions, the NRC developed and implemented process improvements to ensure accurate invoicing, which include, but is not limited to the following: 1) implementing a process to standardize the validation of fees to ensure that fee billing data is correct before appearing on a licensee's invoice; 2) redesigning the invoices to add clarity and transparency for its stakeholders such as including the names of individual NRC staff and/or contractor companies, if applicable, who had performed the work associated with the charges; and 3) implementing a new data structure to more effectively account for and track all billable work at the project level with an EPID data element, which provides useful details regarding the type of project or work that is being billed. Using this data structure allows NRC licensees and other persons assessed service fees to identify how many hours are being expended on each of the various activities within a project.

For the third set of actions, as discussed in the proposed rule, the NRC has developed and is implementing requirements for a standard method for licensees and

applicants to efficiently dispute or seek review and correction of errors in invoices, which is illustrated in the process map, "NRC Form 529, Processing Dispute of Fees-For-Service Charges" (ADAMS Accession No. ML20311A159). Additionally, the NRC is modifying its regulations related to accurate invoicing to clearly outline the interactions between the submitter and the NRC and enhance clarity regarding the dispute process by setting out: 1) the process for submitting a fee dispute, 2) the stages of the decisionmaking process while the dispute is under review, and 3) the manner by which the NRC will notify a debtor after it makes a final determination on a dispute.

Finally, regarding the commenter's specific comments on the regulatory activities that the NRC has previously conducted and billed to the commenter (e.g., inspection activities, reports, and requests for additional information on projects), this is outside scope of this final rule. If the commenter has specific questions regarding NRC invoices and fees that have been assessed, the commenter can contact the Office of the Chief Financial Officer via the eBilling system support portal, by e-mail to FeeBillingInquiries.Resource@nrc.gov, or by mail to the Office of the Chief Financial Officer at U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Chief Financial Officer.

No change was made to this final rule in response to this comment.

Comment: "NRC Form 529 on page 2 has a list [of] 7 pre-conditions that you must certify that you have done. One of them is I Certify that the NRC Form 527 "Request for Information Related to Fees-for-Service" was submitted and a response was received by my organization. Who fills out the response? Do they know the details of the work the person in dispute was performing? We've used NRC Form 527 in the past. NRC Response did not answer the questions we had in the additional disputed details. They just confirmed the information we already knew. [They] confirmed that the employee did work on the project, but did not detail what work they were doing.[] We've disputed bills in the past, the process only confirmed that the employee spent the hours working on the project so the charges are correct. The CFO refused to take into account

the benefit to the licensee and/or fairness of the charge to the licensee. 45 days from initial demand letter (invoice) is not enough time in some cases to determine if the invoice was correct, provided the licensee with a benefit, or was fair for the licensee to be charged. It should be 90 days from when the error became apparent for the licensee to dispute the charge. For example, [i]f you don't like the dispute resolution, what is the process for future review or appeals outside of the NRC CFO office?" (Anonymous)

Response: The NRC continues to strive to enhance the invoicing process to ensure invoice accuracy and the availability of appropriate processes for licensees to efficiently request a review or submit a dispute for invoice errors. A licensee who requests additional information related to NRC staff/contract costs associated with their NRC invoice is responsible for completing all items on page 1 of the NRC Form 527, except for the dedicated response section used by NRC staff only (detailed instructions are provided on page 2 in addition to a process map on page 3 of the form). After the licensee completely fills out their required portions of the NRC Form 527, it should be submitted to the Office of the Chief Financial Officer using one of the three listed options on the form. Once the form is received, the Office of the Chief Financial Officer will forward it to the appropriate EPID contact who will provide the response. The NRC EPID contact will always be the responsible point of contact who is fully knowledgeable of the work performed and, therefore, the appropriate individual to provide a response.

The NRC Form 529 contains a listing of seven pre-conditions that all licensees must meet before submitting the form. These pre-conditions ensure licensees have properly adhered to NRC's standard dispute process which requires: 1) an initial submission of the NRC Form 527 to request a formal review of the charges in question, and 2) submission of the NRC Form 529 to officially request a dispute of the charges after receiving the response provided on the NRC Form 527. Currently, most of the NRC's licensees subject to 10 CFR part 170 fees are registered in eBilling, which is a public-facing, web-based application that provides immediate delivery of NRC invoices in addition to the capability to view and analyze invoice details. Therefore, it is strongly

recommended that licensees not registered in eBilling consider utilizing this electronic invoice platform, if they have the capability to do so. However, consideration was given to the current initial demand letter (invoice) 30-day policy, and the NRC is amending § 15.31 to allow licensees an additional 15 days to submit a review request from the initial demand letter (invoice). The NRC believes that 45 days from receiving an initial demand letter provides enough time for all licensees to determine if an invoice is accurate. Furthermore, upon submission of the NRC Form 529, the licensee must certify they are submitting an official dispute request to the Office of the Chief Financial Officer and agree that the final determination of the status of the disputed debt decision rests solely with the NRC. The NRC's response to a licensee's request submitted on the NRC Form 529 officially completes the agency's invoice dispute process.

Finally, regarding the commenter's specific comments on the regulatory activities that the NRC has previously conducted and billed to the commenter (e.g., inspection activities, reports, and requests for additional information on projects), this is outside of the scope of this final rule. If the commenter has specific questions regarding NRC invoices and fees that have been assessed, the commenter can contact the Office of the Chief Financial Officer via the eBilling system support portal, by e-mail to FeeBillingInquiries.Resource@nrc.gov, or by mail to the Office of the Chief Financial Officer at U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Chief Financial Officer.

No change was made to this final rule in response to this comment.

J. Comments on Matters Not Related to this Rulemaking

Several commenters raised issues outside the scope of the FY 2021 fee rule. Commenters raised concerns with the agency's budgeting process and requested public participation on the agency's budget formulation process. A few commenters requested expediting efficiency efforts and engaging industry regarding additional efficiencies, improvements and efficiencies in the review process for topical reports to reduce the

professional hourly rate for special project fees. These matters are outside the scope of this final rule. The primary purpose of the rule is to update the NRC's fee schedules to recover approximately 100 percent of the NRC's total budget authority for the current fiscal year, less the budget authority for excluded activities, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations in order to ensure compliance with NEIMA.

The NRC understands the importance of examining and improving the efficiency of its operations and the prioritization of its regulatory activities. Accordingly, the NRC has undertaken, and continues to undertake, a number of significant initiatives aimed at improving the efficiency of NRC operations and enhancing the agency's approach to regulating. Though comments raising these issues are not within the scope of this final rule, the NRC will consider this input in its future program operations.

V. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[5] the NRC has prepared a regulatory flexibility analysis related to this final rule. The regulatory flexibility analysis is available as indicated in Section XIV, "Availability of Documents," of this document.

VI. Regulatory Analysis

Under NEIMA, the NRC is required to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2021 less the budget authority for excluded activities. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees

[5] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 847 (1996).

without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery.

In this final rule, the NRC continues this longstanding approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this final rule.

VII. Backfitting and Issue Finality

The NRC has determined that the backfit rule, § 50.109, does not apply to this final rule and that a backfit analysis is not required because these amendments do not require the modification of, or addition to, 1) systems, structures, components, or the design of a facility; 2) the design approval or manufacturing license for a facility; or 3) the procedures or organization required to design, construct, or operate a facility.

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC wrote this document to be consistent with the Plain Writing Act, as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

IX. National Environmental Policy Act

The NRC has determined that this final rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this final rule.

X. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and, therefore, is not subject to the requirements of the Act. In accordance with 5 CFR 1320.4(a)(2), NRC Forms 527 and 529 are also not subject to the requirements of the Paperwork Reduction Act.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act of 1996 (5 U.S.C. 801-808). The Office of Management and Budget has found it to be a major rule as defined in the Congressional Review Act.

XII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is amending the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2021 less the budget authority for excluded activities, as required by NEIMA. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XIII. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the "Small Entity Compliance Guide" for the FY 2021 final fee rule. The compliance guide was developed when the NRC completed the small entity biennial review for FY 2021. This compliance guide is available as indicated in Section XIV, "Availability of Documents," of this document.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

DOCUMENTS	ADAMS ACCESSION NO. / WEB LINK
SECY-05-0164, "Annual Fee Calculation Method," dated September 15, 2005	ML052580332
SECY-16-0097, "Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule," dated August 15, 2016	ML16194A365
Staff Requirements Memorandum for SECY-16-0097, dated October 19, 2016	ML16293A902
NUREG-1100, Volume 36, "Congressional Budget Justification: Fiscal Year 2021" (February 2020)	ML20024D764
Process map, "NRC Form 527, Request for Information Related to Fees-for-Service"	ML20104C055
Process map, "NRC Form 529, Processing Dispute of Fees-For-Service Charges"	ML20311A159
NRC Form 529, "Dispute of Fees-For-Service Charges in Accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Processing Dispute of Fees-For-Service Charges § 170.51"	ML20339A673
FY 2021 Final Rule Work Papers	ML21119A024
FY 2021 Final Fee Rule	ML21109A319
FY 2021 Regulatory Flexibility Analysis	ML21105A747
FY 2021 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide	ML21105A750
SECY-19-0062, "Final Rule: Non-Power Production or Utilization Facility License Renewal," dated June 17, 2019	ML18031A000

SECY-20-0111, “Rulemaking Plan to Amend the Receipts-Based NRC Size Standards,” dated December 7, 2020	ML20268B327
SRM–SECY-20-0111, “Rulemaking Plan to Amend the Receipts-Based NRC Size Standards” (NRC-2014-0264)	ML21029A189
NRC Form 526, “Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171”	https://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf.
OMB Circular A–25, “User Charges”	https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/circulars/a025/a025.html.
Fees Transformation Accomplishments	https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html.

List of Subjects

10 CFR Part 15

Administrative practice and procedure, Claims, Debt collection.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 15, 170, and 171:

PART 15 – DEBT COLLECTION PROCEDURES

1. The authority citation for part 15 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 186 (42 U.S.C. 2201, 2236); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 3701, 3713, 3716, 3719, 3720A; 42 U.S.C. 664; 44 U.S.C. 3504 note; 31 CFR parts 900 through 904; 31 CFR part 285; E.O. 12146, 44 FR 42657, 3 CFR, 1979 Comp., p. 409; E.O. 12988, 61 FR 4729, 3 CFR, 1996 Comp., p. 157.

2. Revise § 15.31 to read as follows:

§ 15.31 Disputed debts.

(a) *Submitting a dispute of debt.* For any type of charges assessed by the NRC, a debtor may submit a dispute of debt within 45 days from the date of the initial demand letter. The debtor shall explain why the debt is incorrect in fact or in law and may support the explanation by affidavit, cancelled checks, or other relevant evidence. The dispute must be submitted to the Office of the Chief Financial Officer via the eBilling system, by e-mail to FeeBillingInquiries.Resource@nrc.gov, or by mail to the Office of the Chief Financial Officer at: U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Chief Financial Officer. For debt disputes related to charges for 10 CFR part 170 fees, the debtor must complete and submit an NRC Form 529 with the required information.

(b) *Notification of receipt.* Following receipt of the dispute, the NRC will acknowledge receipt to the contact person identified by the debtor.

(c) *Dispute review.* The NRC will consider the facts involved in the dispute and, if it considers it necessary, arrange for a conference during which the debtor may present evidence and any arguments in support of the debtor's position. If the debtor's dispute potentially raises an error, the NRC may extend the interest waiver period as described in § 15.37(j) pending a final determination of the existence or amount of the debt.

(d) *Dispute resolution*. If the NRC finds that the dispute has not identified an error, the NRC will notify the dispute contact. If the NRC finds that the dispute has identified an error, the NRC will:

(1) Notify the dispute contact;

(2) Make corrections to the charges or information on the demand letter; and

(3) Issue a revised demand letter.

3. In § 15.37, revise paragraph (j) to read as follows:

§ 15.37 Interest, penalties, and administrative costs.

* * * * *

(j) The NRC may waive interest during the period a debt disputed under § 15.31 is under consideration by the NRC. However, this additional waiver is not automatic and must be requested before the expiration of the initial 30-day waiver period. The NRC may grant the additional waiver only when it finds the debtor's dispute potentially raises an error.

* * * * *

4. In § 15.53, revise paragraphs (c) and (e) to read as follows:

§ 15.53 Reasons for suspending collection action.

* * * * *

(c) The debtor has requested a review of the debt or has disputed the debt.

* * * * *

(e)(1) The NRC shall suspend collection activity during the time required for consideration of the debtor's request for review or dispute of the debt, if the statute under which the request is sought prohibits the NRC from collecting the debt during that time.

(2) If the statute under which the request is sought does not prohibit collection activity pending consideration of the request, the NRC may use discretion, on a case-by-case basis, to suspend collection. Further, the NRC ordinarily should suspend collection action upon a request for review or dispute of the debt, if the NRC is prohibited by statute or regulation from issuing a refund of amounts collected prior to NRC consideration of the debtor's request. However, the NRC should not suspend

collection when the NRC determines that the request for review or dispute of the debt is frivolous or was made primarily to delay collection.

* * * * *

PART 170 -- FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

5. The authority citation for part 170 is revised to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

6. Revise § 170.1 to read as follows:

§ 170.1 Purpose.

The regulations in this part set out fees charged for licensing services, inspection services, and special projects rendered by the Nuclear Regulatory Commission as authorized under title V of the Independent Offices Appropriation Act, 1952 (31 U.S.C. 9701(a)).

7. In § 170.3:

a. Remove the definition for “Balance of plant”;

b. Add a definition for “Non-power production or utilization facility” in alphabetical order; and

c. Remove the definitions for “Nuclear Steam Supply System” and “Reference systems concept”.

The addition reads as follows:

§ 170.3 Definitions.

* * * * *

Non-power production or utilization facility means a production or utilization facility licensed under 10 CFR 50.21(a) or (c), or 10 CFR 50.22, as applicable, that is not

a nuclear power reactor or production facility as defined under paragraphs (1) and (2) of the definition of “production facility” in 10 CFR 50.2.

* * * * *

§ 170.20 [Amended]

8. In § 170.20, remove the dollar amount “$279” and add in its place the dollar amount “$288”.

9. In § 170.21, in the table:

a. Revise the table heading and the entry for “K. Import and export licenses”; and

b. Remove footnote 6.

The revisions read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses.

* * * * *

Table 1 to § 170.21—Schedule of Facility Fees

[See footnotes at end of table]

Facility categories and type of fees	Fees[1 2]
* * * * *	* *
K. Import and export licenses	
Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110.	
1. Application for import or export of production or utilization facilities[4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).	
Application -- new license, or amendment; or license exemption request	$20,200
2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a).	

Application -- new license, or amendment; or license exemption request	$10,100
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application -- new license, or amendment; or license exemption request	$7,200
4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application -- new license, or amendment; or license exemption request	$4,900
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment to license	$4,300

[1]Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

[2]Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect when the service was provided.

* * * * *

10. In § 170.31, revise the table to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

Table 1 to § 170.31 -- Schedule of Materials Fees

[See footnotes at end of table]

Category of materials licenses and type of fees[1]	**Fees**[2, 3]
1. Special nuclear material:[11]	
A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium)[6] [Program Code(s): 21213]	Full Cost

(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel[6] [Program Code(s): 21210]	Full Cost
(2) All other special nuclear materials licenses not included in Category 1.A. (1) which are licensed for fuel cycle activities.[6]	
(a) Facilities with limited operations[6] [Program Code(s): 21240, 21310, 21320]	Full Cost
(b) Gas centrifuge enrichment demonstration facilities.[6] [Program Code(s): 21205]	Full Cost
(c) Others, including hot cell facilities.[6] [Program Code(s): 21130, 21133]	Full Cost
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI)[6] [Program Code(s): 23200]	Full Cost
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 of this chapter in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.[4] Application [Program Code(s): 22140]	$1,300
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[4] Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	$2,700
E. Licenses or certificates for construction and operation of a uranium enrichment facility[6] [Program Code(s): 21200]	Full Cost
F. Licenses for possession and use of special nuclear material greater than critical mass as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities.[4,6] [Program Code(s): 22155]	Full Cost
2. Source material[11]: A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[6] [Program Code(s): 11400]	Full Cost
(2) Licenses for possession and use of source material in recovery operations such as milling, *in-situ* recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.[6]	
(a) Conventional and Heap Leach facilities[6] [Program Code(s): 11100]	Full Cost
(b) Basic *In Situ* Recovery facilities[6] [Program Code(s): 11500]	Full Cost
(c) Expanded *In Situ* Recovery facilities[6] [Program Code(s): 11510]	Full Cost
(d) *In Situ* Recovery Resin facilities[6] [Program Code(s): 11550]	Full Cost
(e) Resin Toll Milling facilities[6] [Program Code(s): 11555]	Full Cost
(f) Other facilities[6] [Program Code(s): 11700]	Full Cost

(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4)[6] [Program Code(s): 11600, 12000]	Full Cost
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2)[6] [Program Code(s): 12010]	Full Cost
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[7, 8] Application [Program Code(s): 11210]	$1,300
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. Application [Program Code(s): 11240]	$6,200
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. Application [Program Code(s): 11230, 11231]	$2,900
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. Application [Program Code(s): 11710]	$2,700
F. All other source material licenses. Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	$2,700
3. Byproduct material[11]: A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 03211, 03212, 03213]	$13,500
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04010, 04012, 04014]	$17,900
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04011, 04013, 04015]	$22,400
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 03214, 03215, 22135, 22162]	$3,700
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or	$5,000

manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04110, 04112, 04114, 04116]	
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04111, 04113, 04115, 04117]	$6,200
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5. Application [Program Code(s): 02500, 02511, 02513]	$5,400
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. Application [Program Code(s): 04210, 04212, 04214]	$7,200
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. Application [Program Code(s): 04211, 04213, 04215]	$8,900
D. [Reserved]	N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). Application [Program Code(s): 03510, 03520]	$3,300
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03511]	$6,700
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03521]	$64,300
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device	

review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03254, 03255, 03257]	$6,900
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03250, 03251, 03253, 03256]	$15,300
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03240, 03241, 03243]	$2,100
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03242, 03244]	$1,200
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1-5. Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	$5,700
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6-20. Application [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	$7,500
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	$9,400
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. Application [Program Code(s): 03620]	$8,600
N. Licenses that authorize services for other licensees, except:	

(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C. Application [Program Code(s): 03219, 03225, 03226]	$9,200
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 1-5. Application [Program Code(s): 03310, 03320]	$9,200
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 6-20. Application [Program Code(s): 04310, 04312]	$12,200
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: more than 20. Application [Program Code(s): 04311, 04313]	$15,300
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 1-5. Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130]	$6,600
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 6-20. Application [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	$8,800
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: more than 20. Application [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	$10,900
Q. Registration of a device(s) generally licensed under part 31 of this chapter. Registration	$800
R. Possession of items or products containing radium-226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section.[5] 1. Possession of quantities exceeding the number of items or limits in § 31.12(a)(4) or (5) of this chapter but less than or equal to 10 times the number of items or limits specified. Application [Program Code(s): 02700]	$2,600
2. Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter. Application [Program Code(s): 02710]	$2,600
S. Licenses for production of accelerator-produced radionuclides. Application [Program Code(s): 03210]	$14,700
4. Waste disposal and processing:[11] A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land	Full Cost

disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. Application [Program Code(s): 03231, 03233, 03236, 06100, 06101]	
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03234]	$7,200
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03232]	$5,200
5. Well logging[11]: A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. Application [Program Code(s): 03110, 03111, 03112]	$4,800
B. Licenses for possession and use of byproduct material for field flooding tracer studies. Licensing [Program Code(s): 03113]	Full Cost
6. Nuclear laundries[11]: A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. Application [Program Code(s): 03218]	$22,900
7. Medical licenses[11]: A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 1-5. Application [Program Code(s): 02300, 02310]	$11,500
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 6-20. Application [Program Code(s): 04510, 04512]	$15,300
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: more than 20. Application [Program Code(s): 04511, 04513]	$19,100
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter	$9,000

authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1-5. Application [Program Code(s): 02110]	
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6-20. Application [Program Code(s): 04710]	$11,900
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: more than 20. Application [Program Code(s): 04711]	$14,900
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 1-5. Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	$10,900
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 6-20. Application [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828]	$9,000
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: more than 20. Application [Program Code(s): 04811,04813, 04815, 04817, 04819, 04821,04823, 04825, 04827, 04829]	$11,300
8. Civil defense:[11] A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. Application [Program Code(s): 03710]	$2,600
9. Device, product, or sealed source safety evaluation:	$17,900

A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution. Application -- each device	
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. Application -- each device	$9,300
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution. Application -- each source	$5,500
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel. Application -- each source	$1,100
10. Transportation of radioactive material: A. Evaluation of casks, packages, and shipping containers. 1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost
2. Other Casks	Full Cost
B. Quality assurance program approvals issued under part 71 of this chapter. 1. Users and Fabricators. Application	$4,300
Inspections	Full Cost
2. Users. Application	$4,300
Inspections	Full Cost
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost
11. Review of standardized spent fuel facilities.	Full Cost
12. Special projects: Including approvals, pre-application/licensing activities, and inspections. Application [Program Code: 25110]	Full Cost
13. A. Spent fuel storage cask Certificate of Compliance.	Full Cost
B. Inspections related to storage of spent fuel under § 72.210 of this chapter.	Full Cost
14. Decommissioning/Reclamation[11] A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200]	Full Cost
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost
15. Import and Export licenses: Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other	

byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.). A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under § 110.40(b) of this chapter. Application -- new license, or amendment; or license exemption request	$20,200
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires the NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.). Application -- new license, or amendment; or license exemption request	$10,100
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances. Application -- new license, or amendment; or license exemption request	$7,200
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances. Application -- new license, or amendment; or license exemption request.	$4,900
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities. Minor amendment	$4,900
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.). *Category 1 (Appendix P, 10 CFR Part 110) Exports:* F. Application for export of appendix P Category 1 materials requiring Commission review (e.g. exceptional circumstance review under § 110.42(e)(4) of this chapter) and to obtain one government-to-government consent for this process. For additional consent see fee category 15.I. Application -- new license, or amendment; or license exemption request	$17,300
G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I.	$8,600

Application -- new license, or amendment; or license exemption request	
H. Application for export of appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application -- new license, or amendment; or license exemption request	$4,900
I. Requests for each additional government-to-government consent in support of an export license application or active export license. Application -- new license, or amendment; or license exemption request	$1,400
Category 2 (Appendix P, 10 CFR Part 110) Exports: J. Application for export of appendix P Category 2 materials requiring Commission review (e.g. exceptional circumstance review under §110.42(e)(4) of this chapter). Application -- new license, or amendment; or license exemption request	$17,300
K. Applications for export of appendix P Category 2 materials requiring Executive Branch review. Application -- new license, or amendment; or license exemption request	$8,600
L. Application for the export of Category 2 materials. Application -- new license, or amendment; or license exemption request	$4,300
M. [Reserved]	N/A
N. [Reserved]	N/A
O. [Reserved]	N/A
P. [Reserved]	N/A
Q. [Reserved]	N/A
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export): R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment	$1,400
16. Reciprocity: Agreement State licensees who conduct activities under the reciprocity provisions of § 150.20 of this chapter. Application	$2,700
17. Master materials licenses of broad scope issued to Government agencies. Application [Program Code(s): 03614]	Full Cost
18. Department of Energy. A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost

B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities.	Full Cost

[1]*Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(1) *Application and registration fees*. Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(i) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(ii) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(2) *Licensing fees*. Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with §170.12(b).

(3) *Amendment fees*. Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(4) *Inspection fees*. Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with §170.12(c).

(5) *Generally licensed device registrations under 10 CFR 31.5*. Submittals of registration information must be accompanied by the prescribed fee.

[2]Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

[3]Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in §170.20 in effect when the service is provided, and the appropriate contractual support services expended.

[4]Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5]Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6]Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[7]Licensees paying fees under 3.C., 3.C.1, or 3.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[8]Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[9]Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[10]Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2. for broad scope licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[11]A materials license (or part of a materials license) that transitions to fee category 14.A is assessed full-cost fees under 10 CFR part 170, but is not assessed an annual fee under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status.

11. Revise § 170.51 to read as follows:

§ 170.51 Right to dispute assessed fees.

All debtors' disputes of fees assessed must be submitted in accordance with 10 CFR 15.31.

PART 171 -- ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

12. The authority citation for part 171 is revised to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 44 U.S.C. 3504 note.

13. Revise § 171.3 to read as follows:

§ 171.3 Scope.

The regulations in this part apply to any person holding an operating license for a non-power production or utilization facility issued under 10 CFR part 50 that has provided notification to the Nuclear Regulatory Commission (NRC) that the licensee has successfully completed startup testing, and to any person holding an operating license for a power reactor or small modular reactor licensed under 10 CFR part 50 or a combined license issued under 10 CFR part 52 that has provided notification to the NRC that the licensee has successfully completed power ascension testing. The regulations

in this part also apply to any person holding a materials license as defined in this part, a certificate of compliance, a sealed source or device registration, a quality assurance program approval, and to a Government agency as defined in this part. Notwithstanding the other provisions in this section, the regulations in this part do not apply to uranium recovery and fuel facility licensees until after the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license.

14. In § 171.5, revise the definition of *"*Budget authority*"* and add a definition for *"*Non-power production or utilization facility*"* in alphabetical order to read as follows:

§ 171.5 Definitions.

* * * * *

Budget authority means the authority, in the form of an appropriation, provided by law and becoming available during the year, to enter into obligations that will result in immediate or future outlays involving Federal Government funds. The appropriation is an authorization by an Act of Congress that permits the NRC to incur obligations and to make payments out of the Treasury for specified purposes. Fees assessed pursuant to Public Law 115-439 are based on the NRC's budget authority.

* * * * *

Non-power production or utilization facility means a production or utilization facility licensed under 10 CFR 50.21(a) or (c), or 10 CFR 50.22, as applicable, that is not a nuclear power reactor or production facility as defined under paragraphs (1) and (2) of the definition of "production facility" in 10 CFR 50.2.

* * * * *

15. In § 171.11, revise paragraph (c) to read as follows:

§ 171.11 Exemptions.

* * * * *

(c) The Commission may, upon application by an interested person or on its own initiative, grant an exemption from the requirements of this part that it determines is authorized by law and otherwise in the public interest.

* * * * *

16. In § 171.15:

a. Revise the section heading and paragraphs (a), (b)(1), (b)(2) introductory text, (c)(1), and (c)(2) introductory text;

b. Remove paragraph (d);

c. Redesignate paragraphs (e) and (f) as paragraphs (d) and (e); and

d. Revise newly redesignated paragraphs (d) and (e).

The revisions read as follows:

§ 171.15 Annual fees: Non-power production or utilization licenses, reactor licenses, and independent spent fuel storage licenses.

(a) Each person holding an operating license for one or more non-power production or utilization facilities under 10 CFR part 50 that has provided notification to the NRC of the successful completion of startup testing; each person holding an operating license for a power reactor licensed under 10 CFR part 50 or a combined license under 10 CFR part 52 that has provided notification to the NRC of the successful completion of power ascension testing; each person holding a 10 CFR part 50 or 52 power reactor license that is in decommissioning or possession only status, except those that have no spent fuel onsite; and each person holding a 10 CFR part 72 license who does not hold a 10 CFR part 50 or 52 license and provides notification in accordance with 10 CFR 72.80(g), shall pay the annual fee for each license held during the Federal fiscal year in which the fee is due. This paragraph (a) does not apply to test or research reactors exempted under § 171.11(b).

(b)(1) The FY 2021 annual fee for each operating power reactor that must be collected by September 30, 2021, is $4,749,000.

(2) The FY 2021 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges. The activities comprising the spent fuel storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2021 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2021 annual fee for each power reactor holding a 10 CFR part 50 license or combined license issued under 10 CFR part 52 that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license or a 10 CFR part 52 combined license, is $237,000.

(2) The FY 2021 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section). The activities comprising the FY 2021 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) Each person holding an operating license for an SMR issued under 10 CFR part 50 or a combined license issued under 10 CFR part 52 that has provided notification to the NRC of the successful completion startup testing, shall pay the annual fee for all licenses held for an SMR site. The annual fee will be determined using the cumulative licensed thermal power rating of all SMR units and the bundled unit concept, during the fiscal year in which the fee is due. For a given site, the use of the bundled unit concept is independent of the number of SMR plants, the number of SMR licenses issued, or the sequencing of the SMR licenses that have been issued.

(2) The annual fees for a small modular reactor(s) located on a single site to be collected by September 30 of each year, are as follows:

Table 1 to Paragraph (d)(2)

Bundled unit thermal power rating	Minimum fee	Variable fee	Maximum fee
First Bundled Unit			
0 MWt ≤250 MWt	TBD	N/A	N/A
>250 MWt ≤2,000 MWt	TBD	TBD	N/A
>2,000 MWt ≤4,500 MWt	N/A	N/A	TBD
Additional Bundled Units			
0 MWt ≤2,000 MWt	N/A	TBD	N/A
>2,000 MWt ≤4,500 MWt	N/A	N/A	TBD

(3) The annual fee for an SMR collected under this paragraph (d) is in lieu of any fee otherwise required under paragraph (b) of this section. The annual fee under this paragraph (d) covers the same activities listed for the power reactor base annual fee and the spent fuel storage/reactor decommissioning reactor fee.

(e) The FY 2021 annual fee for licensees authorized to operate one or more non-power production or utilization facilities under a single 10 CFR part 50 license, unless the reactor is exempted from fees under § 171.11(b), is $80,000.

17. In § 171.16:

a. Revise paragraphs (c) and (d); and

b. Remove paragraph (e).

The revisions read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(c) A licensee who is required to pay an annual fee under this section, in addition to 10 CFR part 72 licenses, may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in table 1 to this paragraph (c). Failure to file a small entity certification in a timely manner could

result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

Table 1 to Paragraph (c)

NRC Small Entity Classification	Maximum Annual Fee Per Licensed Category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years):	
$485,000 to $7 million	$4,900
Less than $485,000	$1,000
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$485,000 to $7 million	$4,900
Less than $485,000	$1,000
Manufacturing Entities that Have An Average of 500 Employees or Fewer:	
35 to 500 employees	$4,900
Fewer than 35 employees	$1,000
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 49,999	$4,900
Fewer than 20,000	$1000
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer	
35 to 500 employees	$4,900
Fewer than 35 employees	$1000

(d) The FY 2021 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown table 2 to this paragraph (d):

Table 2 to Paragraph (d) - Schedule of Materials Annual Fees and Fees for Government Agencies Licensed by NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees[1, 2, 3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium)[15] [Program Code(s): 21213]	$4,643,000

(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel[15] [Program Code(s): 21210]	$1,573,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities. (a) Facilities with limited operations[15] [Program Code(s): 21310, 21320]	$1,037,000
(b) Gas centrifuge enrichment demonstration facility[15] [Program Code(s): 21205]	N/A
(c) Others, including hot cell facility[15] [Program Code(s): 21130, 21133]	N/A
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI)[11,15] [Program Code(s): 23200]	N/A
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [Program Code(s): 22140]	$2,400
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	$5,700
E. Licenses or certificates for the operation of a uranium enrichment facility[15] [Program Code(s): 21200]	$2,023,000
F. Licenses for possession and use of special nuclear materials greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel cycle activities.[4] [Program Code: 22155]	$4,300
2. Source material: A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[15] [Program Code: 11400]	$467,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode. (a) Conventional and Heap Leach facilities.[15] [Program Code(s): 11100]	N/A
(b) Basic *In Situ* Recovery facilities.[15] [Program Code(s): 11500]	$47,200
(c) Expanded *In Situ* Recovery facilities[15] [Program Code(s): 11510]	N/A
(d) *In Situ* Recovery Resin facilities.[15] [Program Code(s): 11550]	[5]N/A
(e) Resin Toll Milling facilities.[15] [Program Code(s): 11555]	[5]N/A
(f) Other facilities[6] [Program Code(s): 11700]	[5]N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in	

Category 2.A.(2) or Category 2.A.(4).[15] [Program Code(s): 11600, 12000]	[5]N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2).[15] [Program Code(s): 12010]	N/A
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[16,17] Application [Program Code(s): 11210]	$2,700
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	$8,900
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. [Program Code(s): 11230 and 11231]	$5,100
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	$6,300
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	$8,500
3. Byproduct material: A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03211, 03212, 03213]	$27,400
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04010, 04012, 04014]	$36,400
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04011, 04013, 04015]	$45,500
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03214, 03215, 22135, 22162]	$9,600
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04110, 04112, 04114, 04116]	$12,700
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for	

commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04111, 04113, 04115, 04117]	$15,800
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4) of this chapter. Number of locations of use: 1–5. [Program Code(s): 02500, 02511, 02513]	$9,000
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. [Program Code(s): 04210, 04212, 04214]	$12,000
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. [Program Code(s): 04211, 04213, 04215]	$16,200
D. [Reserved]	[5]N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520]	$9,900
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511]	$8,900
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521]	$72,100
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255, 03257]	$8,700
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of	

part 30 of this chapter [Program Code(s): 03250, 03251, 03253, 03256]	$17,400
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243]	$3,600
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244]	$2,700
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1-5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	$12,500
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6-20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	$16,600
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	$20,700
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620]	$13,400
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C.[21] [Program Code(s): 03219, 03225, 03226]	$15,200
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license Number of locations of use: 1-5. [Program Code(s): 03310, 03320]	$29,100
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 6-20. [Program Code(s): 04310, 04312]	$38,700
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when	

authorized on the same license. Number of locations of use: more than 20. [Program Code(s): 04311, 04313]	$48,600
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 1-5. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	$9,900
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 6-20. [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	$13,100
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: more than 20. [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	$16,300
Q. Registration of devices generally licensed under part 31 of this chapter	[13]N/A
R. Possession of items or products containing radium–226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section:[14]	
(1). Possession of quantities exceeding the number of items or limits in § 31.12(a)(4), or (5) of this chapter but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	$6,000
(2). Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter [Program Code(s): 02710]	$6,400
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	$23,800
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03236, 06100, 06101]	$22,500
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03234]	$15,800
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03232]	$8,700
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. [Program Code(s): 03110, 03111, 03112]	$12,500

B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	[5]N/A
6. Nuclear laundries: A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. [Program Code(s): 03218]	$28,100
7. Medical licenses: A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1-5. [Program Code(s): 02300, 02310]	$27,100
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6-20. [Program Code(s): 04510, 04512]	$36,100
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: more than 20. [Program Code(s): 04511, 04513]	$45,200
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1-5. [Program Code(s): 02110]	$37,000
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6-20. [Program Code(s): 04710]	$49,300
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same	$61,500

license.[9] Number of locations of use: more than 20. [Program Code(s): 04711]	
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9, 19] Number of locations of use: 1-5. [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	$16,800
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9, 19] Number of locations of use: 6-20. [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828]	$16,900
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9, 19] Number of locations of use: more than 20. [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829]	$20,900
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. [Program Code(s): 03710]	$6,000
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	$17,900
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	$9,300
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	$5,500
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	$1,100
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	[6]N/A
2. Other Casks	[6]N/A

B. Quality assurance program approvals issued under part 71 of this chapter. 1. Users and Fabricators 2. Users	 [6]N/A [6]N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	[6]N/A
11. Standardized spent fuel facilities	[6]N/A
12. Special Projects [Program Code(s): 25110]	[6]N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6]N/A
B. General licenses for storage of spent fuel under § 72.210 of this chapter	[12]N/A
14. Decommissioning/Reclamation: A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200]	[7,20]N/A
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	[7]N/A
15. Import and Export licenses	[8]N/A
16. Reciprocity	[8]N/A
17. Master materials licenses of broad scope issued to Government agencies.[15] [Program Code(s): 03614]	$340,000
18. Department of Energy: A. Certificates of Compliance	[10]$1,354,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities [Program Code(s): 03237, 03238]	$117,000

[1]Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of §171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

[2]Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of part 30, 40, 70, 71, 72, or 76 of this chapter.

[3]Each FY, fees for these materials licenses will be calculated and assessed in accordance with §171.13 and will be published in the Federal Register for notice and comment.

[4]Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5]There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6]Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7]Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8]No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9]Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.A, 7.A.1, 7.A.2, 7.B., 7.B.1, 7.B.2, 7.C, 7.C.1, or 7.C.2.

[10]This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

[11]See §171.15(c).

[12]See §171.15(c).

[13]No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14]Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[15]Licensees subject to fees under categories 1.A., 1.B., 1.E., 2.A., and licensees paying fees under fee category 17 must pay the largest applicable fee and are not subject to additional fees listed in this table.

[16]Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[17]Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[18]Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[19]Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2 for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[20]No annual fee is charged for a materials license (or part of a materials license) that has transitioned to this fee category because the decommissioning costs will be recovered through 10 CFR part 170 fees, but annual fees may be charged for other activities authorized under the license that are not in decommissioning status.

[21]Licensees paying fees under 4.A., 4.B. or 4.C. are not subject to paying fees under 3.N. licenses that authorize services for other licensees authorized on the same license.

18. In § 171.17, revise paragraphs (a)(1) and (2) to read as follows:

§ 171.17 Proration.

(a) * * *

(1) *New licenses.* (i) The annual fees for new licenses for power reactors and small modular reactors that are subject to fees under this part, for which the licensee has notified the NRC on or after October 1 of a fiscal year (FY) that the licensee has successfully completed power ascension testing, are prorated on the basis of the

number of days remaining in the FY. Thereafter, the full annual fee is due and payable each subsequent FY.

(ii) The annual fees for new licenses for non-power production or utilization facilities, 10 CFR part 72 licensees who do not hold 10 CFR part 50 or 52 licenses, and materials licenses with annual fees of $100,000 or greater for a single fee category for the current FY, that are subject to fees under this part and are granted a license to operate on or after October 1 of a FY, are prorated on the basis of the number of days remaining in the FY. Thereafter, the full annual fee is due and payable each subsequent FY.

(2) *Terminations.* The base operating power reactor annual fee for operating reactor licensees or the annual fee for small modular reactor licensees, who have requested amendment to withdraw operating authority permanently during the FY will be prorated based on the number of days during the FY the license was in effect before docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel or when a final legally effective order to permanently cease operations has come into effect. The spent fuel storage/reactor decommissioning annual fee for reactor licensees who permanently cease operations and have permanently removed fuel from the site during the FY will be prorated on the basis of the number of days remaining in the FY after docketing of both the certifications of permanent cessation of operations and permanent removal of fuel from the site. The spent fuel storage/reactor decommissioning annual fee will be prorated for those 10 CFR part 72 licensees who do not hold a 10 CFR part 50 or 52 license who request termination of the 10 CFR part 72 license and permanently cease activities authorized by the license during the FY based on the number of days the license was in effect before receipt of the termination request. The annual fee for materials licenses with annual fees of $100,000 or greater for a single fee category for the current FY will be prorated based on the number of days remaining in the FY when a termination request or a request for a possession-only license is received by the NRC, provided the licensee

permanently ceased licensed activities during the specified period. The annual fee for non-power production or utilization facilities will be prorated based on the number of days remaining in the FY when the authorization to operate the facility has been permanently removed from the license during the FY.

* * * * *

19. Add § 171.26 to read as follows:

§ 171.26 Right to dispute assessed fees.

All debtors' disputes of fees assessed must be submitted in accordance with 10 CFR 15.31.

Dated: June 9, 2021.

For the Nuclear Regulatory Commission.

Cherish K. Johnson,
Chief Financial Officer.

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